TITLE 10.—ARMED FORCES

This title was enacted by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1

Subtitle A.—General Military Law

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CODIFICATION

Pub. L. 92-425 amended the chapter heading without reference to earlier amendment by Pub. L. 87-381, §§ 1(1), 6(2), (3), Oct. 4, 1961, 75 Stat. 810, 812, which substituted "Retired Serviceman's Family Protection Plan" for "Annuities Based on Retired or Retainer Pay". Amendment by Pub. L. 92-425, § 2, Sept. 21, 1972, 86 Stat. 711 has been executed to chapter heading as originally enacted.

AMENDMENTS

1972—Pub. L. 92-426, § 2(b), Sept. 21, 1972, 86 Stat. 719 added chapters 104 and 105.

Pub. L. 92-425, § 2, Sept. 21, 1972, 86 Stat. 711 amended chapter 73 heading to read "Annuities Based on Retired or Retainer Pay; Survivor Benefit Plan". See codification note above.

PART I.—ORGANIZATION AND GENERAL MILITARY POWERS

Chapter 1.—DEFINITIONS

§ 101. Definitions.

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

* * * * *

(2) Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, "Territory" means any Territory organized after this title is enacted, so long as it remains a Territory.

* * * * *

(As amended Oct. 13, 1972, Pub. L. 92-492, § 1, 86 Stat. 810.)

AMENDMENTS

1972—Cl. (2). Pub. L. 92-492 added "Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States," preceding "Territory".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 438; title 18 section 232; title 33 section 857-1; title 39 section 3401.

Chapter 3.—GENERAL POWERS

§ 126. Transfer of funds and employees.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to approve the transfers of balances of appropriations provided for therein delegated to the Director of the Office of Management of Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Chapter 4.—DEPARTMENT OF DEFENSE

Sec.

134. Deputy Secretaries of Defense: appointment; powers and duties; precedence.

138. Secretary of Defense: Annual authorization of appropriations for armed forces.

139. Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports.

140. Emergencies and extraordinary expenses.

AMENDMENTS

1975—Pub. L. 94-106, title VIII, § 804(a), Oct. 7, 1975, 89 Stat. 538, added item 140.

1973—Pub. L. 93-155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, added items 138 and 139.

1972—Pub. L. 92-596, § 4(3), Oct. 27, 1972, 86 Stat. 1318, substituted "Deputy Secretaries" for "Deputy Secretary" in item 134.

§ 131. Executive department.

DEFENSE MANPOWER COMMISSION

Pub. L. 93-155, title VII, §§ 701–708, Nov. 16, 1973, 87 Stat. 609–611, provided as follows:

"Sec. 701 [Defense Manpower Commission; establishment; membership; restrictions]. (a) There is hereby established a commission to be known as the Defense Manpower Commission (hereinafter in this title referred to as the 'Commission').

"(b) The Commission shall be composed of seven members appointed as follows:

"(1) One member to be appointed by the majority leader of the Senate;

"(2) One member to be appointed by the minority leader of the Senate;

"(3) One member to be appointed by the majority leader of the House of Representatives;

"(4) One member to be appointed by the minority leader of the House of Representatives; and

"(5) Three members to be appointed by the President. No person may be appointed to the Commission who is a civilian officer or employee of the Federal Government; and no person may be appointed who is serving on active duty with the Armed Forces of the United States.

"(c) The Commission shall elect a Chairman and Vice Chairman from among its members.

"(d) Four members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

"Sec. 702 [Duties of the Commission; manpower requirements, study and investigation]. It shall be the duty of the Commission to conduct a comprehensive study and investigation of the overall manpower requirements of the Department of Defense on both a short-term and long-term basis with a view to determining what the manpower requirements are currently and will likely be over the next ten years, and how manpower can be more effectively utilized in the Department of Defense. In carrying out such study and investigation the Commission shall give special consideration to—

"(1) the effectiveness with which civilian and active duty personnel are utilized, particularly in headquarters staffing and in the number of support forces in relation to combat forces;

"(2) whether the pay structure, including fringe benefits, is adequate and equitable at all levels;

"(3) the distribution of grades within each armed force and the requirements for advancement in grade;

"(4) the cost-effectiveness and manpower utilization of the United States Armed Forces as compared with the armed forces of other countries;

"(5) whether the military retirement system is consistent with overall Department of Defense requirements and is comparable to civilian retirement plans;

"(6) the methods and techniques used to attract and recruit personnel for the armed forces, and whether such methods and techniques might be improved or new and more effective ones utilized;

"(7) the implications for the ability of the armed forces to fulfill their mission as a result of the change in the socio-economic composition of military enlistees since the enactment of new recruiting policies provided for in Public Law 92–129 and the implications for national policies of this change in the composition of the armed forces: and

"(8) such other matters related to manpower as the Commission deems pertinent to the study and investigation authorized by this title.

"Sec. 703 [Powers of the Commission]. (a) The Commission or, on the authorization of the Commission, any subcommittee member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places as the Commission or such subcommittee or member may deem advisable.

"(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

"(c) The Commission shall establish appropriate measures to insure the safeguarding of all classified information submitted to or inspected by it in carrying out its duties under this title.

"Sec. 704 [Compensation of the Commission]. Each member of the Commission shall receive an amount equal to the daily rate paid a GS–18 under the General Schedule contained in section 5332 of title 5, United States Code (including travel-time), during which he is engaged in the actual performance of his duties as a member of the Commission. Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"Sec. 705 [Staff of the Commission; contract authority]. (a) The Commission shall appoint an Executive Director and such other personnel as it deems advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; but personnel so appointed may not receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title 5.

"(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS–18.

"(c) The Commission is authorized to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"Sec. 706 [Administrative services]. The Administrator of the General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

"Sec. 707 [Reports of the Commission to Congress and President; termination date]. (a) The Commission shall, from time to time, submit interim reports to the Congress and to the President regarding its duties under this title, and shall include in any such reports its findings together with such recommendations for administrative or legislative action as the Commission considers advisable.

"(b) The Commission shall submit its final report to the Congress and to the President not more than twenty-four months after the appointment of the Commission. Such report shall include all interim reports and the final findings and recommendations of the Commission.

"(c) The Commission shall cease to exist sixty days after the submission of its final report.

"Sec. 708 [Authorization for appropriations]. There are authorized to be appropriated to the Commission a sum not to exceed $2,500,000 to carry out the provisions of this title."

AIR FORCE RESERVE AND AIR NATIONAL GUARD OF UNITED STATES; STUDY AND INVESTIGATION OF RELATIVE STATUS; ADVANTAGES AND DISADVANTAGES OF ALTERNATIVES; MODERNIZATION AND MANPOWER NEEDS; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 93–155, title VIII, § 810, Nov. 16, 1973, 87 Stat. 618, provided that:

"(a) The Secretary of Defense is authorized and directed to carry out a comprehensive study and investigation to determine the relative status of the Air Force Reserve and the Air National Guard of the United States. In carrying out such study and investigation the Secretary shall quantitatively measure the effects on full costs and on combat capability and readiness, as well as enumerate the military and other advantages and disadvantages of at least the following alternatives: (1) merging the Air Force Reserve into the Air National Guard structure; (2) merging the Air National Guard into the Air Force Reserve structure; and (3) retaining both the Air Force Reserve and the Air National Guard. Such study shall also consider and give equal weight to the modernization needs of the Air National Guard and the Air Force Reserve, including: (1) aircraft; (2) ground equipment; (3) facilities; (4) communication, and (5) other pertinent needs. It shall also consider the related problems of recruiting, training and retraining sufficient manpower of needed quality to man the authorized units.

"(b) The Secretary of Defense shall submit to the President and the Congress a detailed report of such study and investigation not later than January 31, 1975. The Secretary shall include in such report a complete evaluation of each of the alternatives specified in subsection (a) above, and a detailed explanation of the facts and information which serve as the basis for any conclusions stated therein, and shall also include in such report such recommendations for legislative action as he deems appropriate."

§ 133. Secretary of Defense: appointment; powers and duties; delegation by.

REPORTS TO CONGRESSIONAL COMMITTEES ON FOREIGN POLICY AND MILITARY FORCE STRUCTURE

Section 812 of Pub. L. 94–106, title VIII, Oct. 7, 1975, 89 Stat. 540, provided that: "The Secretary of Defense, after consultation with the Secretary of State, shall prepare and submit to the Committees on Armed Services

of the Senate and the House of Representatives a written annual report on the foreign policy and military force structure of the United States for the next fiscal year, how such policy and force structure relate to each other, and the justification for each. Such report shall be submitted not later than January 31 of each year."

REPORTS TO CONGRESS ON PROPOSED TRANSFER OR SALE OF DEFENSE ARTICLES

Section 813 of Pub. L. 94–106, title VIII, Oct. 7, 1975, 89 Stat. 540, provided that:

"In the case of any letter of offer to sell or any proposal to transfer defense articles which are valued at $25,000,000 or more than the United States active forces' inventories, the Secretary of Defense shall submit a report to the Congress setting forth—

"(1) the impact of such sales or transfers on the current readiness of United States forces; and

"(2) the adequacy of reimbursements to cover, at the time of replenishment to United States' inventories, the full replacement costs of those items sold or transferred."

§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence.

(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Deputy Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

(c) The Deputy Secretaries take precedence in the Department of Defense immediately after the Secretary. (As amended Pub. L. 92–596, § 4(1), Oct. 27, 1972, 86 Stat. 1318.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–596 substituted "Deputy Secretaries" for "Deputy Secretary" in the catchline, and in subsec. (a) substituted "There are two Deputy Secretaries of Defense" for "There is a Deputy Secretary of Defense".

Subsec. (b). Pub. L. 92–596 provided for the exercise of powers and duties consequent to the creation of a second Deputy Secretary.

Subsec. (c). Pub. L. 92–596 substituted "The Deputy Secretaries take" for "The Deputy Secretary takes".

§ 135. Director of Defense Research and Engineering: appointment; powers and duties; precedence.

* * * * *

(c) The Director takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretaries of Defense, and the Secretaries of the military departments. (As amended Pub. L. 92–596, § 4(2), Oct. 27, 1972, 86 Stat. 1318.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–596 substituted "Deputy Secretaries" for "Deputy Secretary".

§ 136. Assistant Secretaries of Defense: appointment; powers and duties; precedence.

(a) There are nine Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

* * * * *

(e) The Assistant Secretaries take precedence in the Department of Defense after the Secretary, the Deputy Secretaries of Defense, the Secretaries of the military departments and the Director of Defense Research and Engineering.

* * * * *

(As amended Pub. L. 92–215, § 1, Dec. 22, 1971, 85 Stat 777; Pub. L. 92–596, § 4(2), Oct. 27, 1972, 86 Stat. 1318.)

AMENDMENTS

1972—Subsec. (e). Pub. L. 92–596 substituted "Deputy Secretaries" for "Deputy Secretary".

1971—Subsec. (a). Pub. L. 92–215 increased the number of Assistant Secretaries of Defense from eight to nine.

§ 138. Secretary of Defense: Annual authorization of appropriations for armed forces.

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons; or

(5) procurement of naval torpedoes and related support equipment;

(6) military construction (as defined in subsection (e) of this section);

unless funds therefor have been specifically authorized by law.

(b) Congress shall authorize the personnel strength of the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year for the pay and allowances of members of any reserve component of the armed forces unless the personnel strength of the Selected Reserve of that reserve component for that fiscal year has been authorized by law.

(c)(1) Congress shall authorize the end strength as of the end of each fiscal year for active-duty personnel for each component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the active-duty personnel of any component of the armed forces unless the end strength for active-duty personnel of that component for that fiscal year has been authorized by law.

(2) Congress shall authorize the end strength as of the end of each fiscal year for civilian personnel for each component of the Department of Defense. No funds may be appropriated for any fiscal year to or for the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

(3) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year

and the national security policies of the United States in effect at the time. The justification and explanation shall specify in detail for all military forces including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit, the—

(A) unit mission and capability;

(B) strategy which the unit supports; and

(C) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

It shall also include a detailed discussion of (i) the manpower required for support and overhead functions within the armed forces and the Department of Defense, (ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies, and (iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

(d)(1) Congress shall authorize the average military training student loads for each component of the armed forces. Such authorization is not required for unit or crew training student loads, but is required for student loads for the following individual training categories—

(A) recruit and specialized training;

(B) flight training;

(C) professional training in military and civilian institutions; and

(D) officer acquisition training.

No funds may be appropriated for any fiscal year for training military personnel in the training categories described in clauses (A)–(D) of any component of the armed forces unless the average student load of that component for that fiscal year has been authorized by law.

(2) The Secretary of Defense shall submit to Congress a written report, not later than March 1 of each fiscal year, recommending the average student load for each category of training for each component of the armed forces for the next three fiscal years, and shall include in that report justification for, and explanation of, the average student loads recommended.

(e) For purposes of subsection (a)(6) of this section, the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies) but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85–241 (71 Stat. 556) applies. (Added Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, and amended Pub. L. 94–106, title VIII, § 801(a), Oct. 7, 1975, 89 Stat. 537.)

REFERENCES IN TEXT

Section 406(a) of Pub. L. 85–241 (71 Stat. 556), referred to in subsec. (e), is classified to section 15941 of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

Pub. L. 86–149, title IV, § 412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87–436, §2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88–174, title VI, § 610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89–37, title III, § 304, June 11, 1965, 79 Stat. 128; Pub. L. 90–168, § 6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91–121, title IV, § 405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–441, title V, §§ 505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92–129, title VII, § 701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92–436, title III, § 302, title VI, § 604, Sept. 26, 1972, 86 Stat. 736, 739, were repealed by Pub. L. 93–155, title VIII, § 803(b)(1), Nov. 16, 1973, 87 Stat. 615, and are now covered by this section.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–106, § 801(a)(1), added par. (6).

Subsec. (e). Pub. L. 94–106, § 801(a)(2), added subsec. (e).

APPLICABILITY OF PROVISIONS RELATING TO FUNDS NOT HERETOFORE REQUIRED TO BE AUTHORIZED

Section 801(b) of Pub. L. 94–106 provided that: "The amendment provided by paragraph (2) of subsection (a) above [enacting subsec. (e) of this section] with respect to funds not heretofore required to be authorized shall only apply to funds authorized for appropriation for fiscal year 1977 and thereafter."

MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS

Pub. L. 93–365, title V, § 502, Aug. 5, 1974, 88 Stat. 404, provided that: "It is the sense of Congress that the Department of Defense shall use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense. Therefore, in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense shall, in particular, consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job. A full justification of any conversion from one form of manpower to another shall be contained in the annual manpower requirements report to the Congress required by section 138(c)(3) of title 10, United States Code [subsec. (c)(3) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 139 of this title.

§ 139. Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports.

(a) The Secretary of Defense shall submit to Congress each calendar year, at the same time the President submits the budget to Congress under section 11 of title 31, a written report regarding development and procurement schedules for each weapon system for which fund authorization is required by section 138(a) of this title, and for which any funds for procurement are requested in that budget. The report shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual report required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) The Secretary of Defense shall submit a supplemental report to Congress not less than thirty, or more than ninety, days before the award of any contract, or the exercise of any option in a contract, for the procurement of any such weapon system (other than procurement of units for operational testing and evaluation, or long lead-time items, or both), unless—

(1) the contractor or contractors for that system have not yet been selected and the Secretary of Defense determines that the submission of that report would adversely affect the source selection process and notifies Congress in writing, prior to such award, of that determination, stating his reasons therefor; or

(2) the Secretary of Defense determines that the submission of that report would otherwise adversely affect the vital security interests of the United States and notifies Congress in writing of that determination at least thirty days prior to the award, stating his reasons therefor.

(c) Any report required to be submitted under subsection (a) or (b) shall include detailed and summarized information with respect to each weapon system covered, and specifically include, but not be limited to—

(1) the development schedule, including estimated annual costs until development is completed;

(2) the planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed; and

(3) to the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the report, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(d) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for that fiscal year has been submitted to Congress, the same reporting requirements shall be applicable to that system in the same manner and to the same extent as if funds had been requested for that system in that budget. (Added Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 614, and amended Pub. L. 94–106, title VIII, § 805, Oct. 7, 1975, 89 Stat. 538.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–106 substituted "or more than ninety, days before" for "or more than sixty, days before".

REPORTS TO CONGRESS OF ACQUISITIONS FOR MAJOR DEFENSE SYSTEMS

Section 811 of Pub. L. 94–106 provided that:

"(a) Beginning with the quarter ending December 31, 1975, the Secretary of Defense shall submit to the Congress within 30 days after the end of each quarter of each fiscal year, written selected acquisition reports for those major defense systems which are estimated to require the total cumulative financing for research, development, test, and evaluation in excess of $50,000,000 or a cumulative production investment in excess of $200,000,000. If the reports received are preliminary then final reports are to be submitted to the Congress within 45 days after the end of each quarter.

"(b) Any report required to be submitted under subsection (a) shall include, but not be limited to, the detailed and summarized information included in reports required by section 139 of title 10, United States Code [this section]."

PRIOR PROVISIONS: WEAPONS DEVELOPMENT AND PROCUREMENT SCHEDULES REPORT; SUPPLEMENTAL REPORT.

Pub. L. 92–156, title V, § 506, Nov. 17, 1971, 85 Stat. 429, provided for weapons development and procurement schedules report and supplemental report, was repealed by Pub. L. 93–155, title VIII, § 803(b)(2), Nov. 16, 1973, 87 Stat. 615, and is now covered by this section.

§ 140. Emergencies and extraordinary expenses.

(a) Subject to the limitations of subsection (c) of this section, and within the limitation of appropriations made for the purpose, the Secretary of Defense and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c) In any case in which funds are expended under the authority of subsections (a) and (b) of this section, the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives. (Added Pub. L. 94–106, title VIII, § 804(a), Oct. 7, 1975, 89 Stat. 538.)

Chapter 7.—BOARDS, COUNCILS, AND COMMITTEES

§ 171. Armed Forces Policy Council.

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

* * * * *

(2) a Deputy Secretary of Defense;

* * * * *

(As amended Oct. 27, 1972, Pub. L. 92–596, § 5, 86 Stat. 1318.)

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92–596 substituted "a Deputy Secretary" for "the Deputy Secretary".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3034, 8034 of this title.

Chapter 11.—RESERVE COMPONENTS

§ 261. Reserve components named.

AVERAGE STRENGTH OF SELECTED RESERVE OF EACH RESERVE COMPONENT FOR FISCAL YEAR ENDING JUNE 30, 1972

Pub. L. 92–156, title III, §§ 301, 302, Nov. 17, 1971, 85 Stat. 425, provided that:

"SEC. 301. For the fiscal year beginning July 1, 1971, and ending June 30, 1972, the Selected Reserve of each Reserve component of the Armed Forces will be programed to attain an average strength of not less than the following:

"(1) The Army National Guard of the United States, 400,000.

"(2) The Army Reserve, 260,000.

"(3) The Naval Reserve, 129,000.

"(4) The Marine Corps Reserve, 45,849.

"(5) The Air National Guard of the United States, 88,191

"(6) The Air Force Reserve, 49,634.

"(7) The Coast Guard Reserve, 15,000.

"SEC. 302. The average strength prescribed by section 301 of this title for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever any such units or such individual members are released from active duty during any fiscal year, the average strength for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members."

§ 270. Ready Reserve: training requirements.

(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is inducted, enlisted, or appointed in an armed force after August 9, 1955, and who becomes a member of the Ready Reserve under any provision of law except section 269(b) of this title, shall be required, while in the Ready Reserve, to—

(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year;

(2) serve on active duty for training not more than 30 days during each year.

However, no member who has served on active duty for one year or longer shall be required to perform a period of active duty for training if the first day of such period falls during the last one hundred and twenty days of his required membership in the Ready Reserve.

* * * * *

(As amended Pub. L. 92–156, title III, § 303(a), Nov. 17, 1971, 85 Stat. 425.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–156 inserted exception to training requirements where member served on active duty for one year or more if the training period falls during last one hundred and twenty days of required membership in Ready Reserve.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 268, 1201, 1202, 1203, 3687, 3721, 6148, 8687, 8721 of this title; title 14 section 764; title 50 App. section 456.

Chapter 15.—INSURRECTION

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 22–3215a of the District of Columbia Code.

PART II.—PERSONNEL

Chap. Sec.
73. Annuities Based on Retired or Retainer Pay; Survivor Benefit Plan 1431

CODIFICATION

Pub. L. 92–425 amended the chapter heading without reference to earlier amendment by Pub. L. 87–381, §§ 1(1), 6(2), (3), Oct. 4, 1961, 75 Stat. 810, 812, which substituted "Retired Serviceman's Family Protection Plan" for "Annuities Based on Retired or Retainer Pay". Amendment by Pub. L. 92–425, § 2, Sept. 21, 1972, 86 Stat. 711 has been executed to chapter heading as originally enacted.

AMENDMENTS

1972—Pub. L. 92–425, § 2, Sept. 21, 1972, 86 Stat. 711, amended chapter 73 heading to read "Annuities Based On Retired Or Retainer Pay; Survivor Benefit Plan". See Codification note above.

Chapter 31.—ENLISTMENTS

§ 505. Regular components: qualifications, term, grade.

(a) The Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than seventeen years of age nor more than thirty-five years of age. However, no person under eighteen years of age may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control.

* * * * *

(c) The Secretary concerned may accept original enlistments of persons for the duration of their minority or for a period of two, three, four, five, or six years, in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be.

* * * * *

(As amended Pub. L. 93–290, §§ 1, 2, May 24, 1974, 88 Stat. 173.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–290, § 1, eliminated provisions which prohibited the Secretary from accepting original enlistments from female persons less than 18 years of age, and which required consent of the parent or guardian for an original enlistment of a female person under 21 years of age.

Subsec. (c). Pub. L. 93–290, § 2, substituted provisions permitting the Secretary to accept original enlistments of persons for the duration of their minority or for a period of two, three, four, five, or six years, for provisions which limited the Secretary to accept original enlistments from male persons for the duration of their minority or for a period of two, three, four, five, or six years, and from female persons for a period of two, three, four, five, or six years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 519 of this title.

§ 511. Reserve components: terms.

* * * * *

(d) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it

is not operating as a service in the Navy, a non-prior-service person who is under 26 years of age, who is qualified for induction for active duty in an armed force, and who is not under orders to report for induction into an armed force under the Military Selective Service Act of 1967 (50 App. U.S.C. 451–473), except as provided in section 6(c)(2)(A)(ii) and (iii) of such Act, may be enlisted in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of six years. Each person enlisted under this subsection shall perform an initial period of active duty for training of not less than twelve weeks to commence insofar as practicable within 180 days after the date of that enlistment. (As amended Oct. 7, 1975, Pub. L. 94–106, title VIII, § 802(a), 89 Stat. 537.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–106 reduced the initial period of active duty for training for persons enlisted under this subsection from four months to twelve weeks.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 765.

§ 514. Bounties prohibited; substitutes prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 37 section 308a.

Chapter 35.—APPOINTMENT AS RESERVE OFFICERS

§ 593. Commissioned officers: appointment, how made; term.

(a) Appointments of Reserves in commissioned grades below lieutenant colonel and commander, except commissioned warrant officer, shall be made by the President alone. Appointments of Reserves in commissioned grades above major and lieutenant commander shall be made by the President, by and with the advice and consent of the Senate, except as provided in section 3352 or 8352 of this title.

* * * * *

(As amended Sept. 28, 1971, Pub. L. 92–129, title VI, § 601, 85 Stat. 361.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–129 substituted "below lieutenant colonel and commander" for "below general officer and flag officer", "in commissioned grades above major and lieutenant commander" for "as general and flag officers", and "section 3352 or 8352 of this title" for "section 3352 of this title", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3352 of this title; title 14 section 271.

Chapter 37.—GENERAL SERVICE REQUIREMENTS

§ 651. Members: required service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 595, 1005, 4348, 9348 of this title; title 14 section 182; title 50 App. section 456.

Chapter 39.—ACTIVE DUTY

§ 671. Members not to be assigned outside United States before completing training.

No member of an armed force may be assigned to active duty on land outside the United States and its Territories and possessions, until he has had twelve weeks of basic training or its equivalent. (As amended Oct. 7, 1975, Pub. L. 94–106, title VIII, § 802(b), 89 Stat. 537.)

AMENDMENTS

1975—Pub. L. 94–106 reduced the minimum period of basic training from four months to twelve weeks.

§ 673. Ready Reserve.

* * * * *

(d) Whenever one or more units of the Ready Reserve are ordered to active duty, the President shall, on the first day of the second fiscal year quarter immediately following the quarter in which the first unit or units are ordered to active duty and on the first day of each succeeding six-month period thereafter, so long as such unit is retained on active duty, submit a report to the Congress regarding the necessity for such unit or units being ordered to and retained on active duty. The President shall include in each such report a statement of the mission of each such unit ordered to active duty, an evaluation of such unit's performance of that mission, where each such unit is being deployed at the time of the report, and such other information regarding each unit as the President deems appropriate. (As amended Nov. 16, 1973, Pub. L. 93–155, title III, § 303(a), 87 Stat. 607.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93–155 added subsec. (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 303(b) of Pub. L. 93–155 provided that: "The amendment made by subsection (a) of this section [enacting subsec. (d) of this section] shall be effective with respect to any unit of the Ready Reserve ordered to active duty on or after the date of enactment of this Act [Nov. 16, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 268 of this title.

§ 684. Payment of certain Reserves while on duty.

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

(1) the payments to which he is entitled because of his earlier military service; or

(2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing.

(b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a)(2), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents

are unaffected by this subsection. (As amended Pub. L. 93–586, § 1, Jan. 2, 1975, 88 Stat. 1920.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–586 added reference to Coast Guard.

Subsec. (b). Pub. L. 93–586 added reference to Coast Guard.

Chapter 40.—LEAVE

§ 701. Entitlement and accumulation.

* * * * *

(b) Except as provided in subsection (f) and subsection (g), a member may not accumulate more than 60 days' leave. However, leave taken during a fiscal year may be charged to leave accumulated during that fiscal year without regard to this limitation.

* * * * *

(g) A member who is in a missing status, as defined in section 551(2) of title 37, accumulates leave without regard to the sixty-day limitation in subsection (b) and the ninety-day limitation in subsection (f). Notwithstanding the death of a member while in a missing status, he continues to earn leave through the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of title 37.

Leave accumulated while in missing status shall be accounted for separately. It may not be taken, but shall be paid for under section 501(h) of title 37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37. (As amended Pub. L. 92–596, § 1, Oct. 27, 1972, 86 Stat. 1317.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–596, § 1(1), added reference to subsec. (g).

Subsec. (g). Pub. L. 92–596, § 1(2), added subsec. (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3 of Pub. L. 92–596 provided that: "The first and second sections of this Act [amending this section and section 501 of Title 37] become effective as of February 28, 1961."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 703 of this title; title 37 sections 501, 502.

§ 703. Reenlistment leave.

* * * * *

(b) Under regulations prescribed by the Secretary of Defense, and notwithstanding subsection (a), a member who is on active duty in an area described in section 310(a)(2) of title 37 and who, by reenlistment, extension of enlistment, or other voluntary action, extends his required tour of duty in that area for at least six months may be—

* * * * *

Leave under this subsection may not be charged or credited to leave that accrued or that may accrue under section 701 of this title. The provisions of this subsection shall be effective only in the case of members who extend their required tours of duty on or before June 30, 1973. (As amended Pub. L. 92–481, Oct. 9, 1972, 86 Stat. 795.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–481 substituted "June 30, 1973" for "June 30, 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702 of this title.

Chapter 41.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

§ 719. Department of Commerce: assignment or detail to Environmental Science Services Administration.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 47.—UNIFORM CODE OF MILITARY JUSTICE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 8331.

§ 802. Art. 2. Persons subject to this chapter.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 807. Art. 7. Apprehension.

REWARD FOR APPREHENSION OF DESERTERS, PRISONERS, AND MEMBERS ABSENT WITHOUT LEAVE

Pub. L. 93–437, title VIII, § 808, Oct. 8, 1974, 88 Stat. 1226, provided in part that a reward of not to exceed $25 in any one case shall be paid for the apprehension and delivery of deserters, prisoners, and members of the Army, Navy, Marine Corps, and Air Force absent without leave.

Similar provisions were contained in the following prior acts:

Jan. 2, 1974, Pub. L. 93–238, title VII, § 708, 87 Stat. 1039.

Oct. 26, 1972, Pub. L. 92–570, title VII, § 708, 85 Stat. 728.

Dec. 18, 1971, Pub. L. 92–204, title VII, § 708, 85 Stat. 728.

§ 858. Art. 58. Execution of confinement.

DONATION UPON RELEASE FROM CONFINEMENT OR DISCHARGE FOR FRAUDULENT ENLISTMENT

Pub. L. 93–437, title VIII, § 808, Oct. 8, 1974, 88 Stat. 1225, provided in part that donations of not to exceed $25 shall be paid to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment.

Similar provisions were contained in the following prior acts:

Jan. 2, 1974, Pub. L. 93–238, title VII, § 708, 87 Stat. 1039.

Oct. 26, 1972, Pub. L. 92–570, title VII, § 708, 86 Stat. 1197.

Dec. 18, 1971, Pub. L. 92-204, title VII, § 708, 85 Stat. 728.

§ 894. Art. 94. Mutiny or sedition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3505.

§ 904. Art. 104. Aiding the enemy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3505.

§ 906. Art. 106. Spies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3505.

Chapter 49.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

§ 973. Duties: regular officers; performance of civil functions restricted.

CROSS REFERENCES

Reduction in retired or retirement pay during term of employment, see section 5532 of Title 5, Government Organization and Employees.

Chapter 51.—RESERVE COMPONENTS: STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

§ 1005. Commissioned officers: retention until completion of required service.

A reserve commissioned officer, other than a commissioned warrant officer, who has not completed the period of service required of him by section 651 of this title or any other provision of law, may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade. (As amended Pub. L. 93-586, § 2, Jan. 2, 1975, 88 Stat. 1920.)

AMENDMENTS

1975—Pub. L. 93-586 added reference to chapter 21 of Title 14.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 123, 1002, 3819, 3820, 3846, 6389, 6410, 8819, 8846 of this title; title 32 section 323.

§ 1006. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

(2) the third anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

(2) the second anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(c) An officer who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.

* * * * *

(e) A reserve commissioned officer on active duty (other than for training) who, on the date on which he would otherwise be removed from an active status under section 3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 787 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by section 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in section 3843, 3844, or 3845 of this title, or section 21(e) of the Act enacting this section, as the case may be. (As amended Pub. L. 93-586, § 3, Jan. 2, 1975, 88 Stat. 1920.)

REFERENCES IN TEXT

Section 21(e) of the Act enacting this section, referred to in subsec. (e), means section 21(e) of Pub. L. 85-861, which is set out as a note under section 3843 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-586, § 3(1), added reference to chapter 21 of Title 14.

Subsec. (b). Pub. L. 93-586, § 3(1), added reference to chapter 21 of Title 14.

Subsec. (c). Pub. L. 93-586, § 3(2), substituted "An officer who is retained" for "An officer of the Army or the Air Force who is retained".

Subsec. (e). Pub. L. 93-586, § 3(3), substituted "discharge is required by this title or title 14" for discharge is required by this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 123, 3819, 3820, 3846, 8819, 8846 of this title; title 32 section 323.

Chapter 55.—MEDICAL AND DENTAL CARE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 38 sections 613, 4108.

§ 1071. Purpose of sections 1071–1087 of this title.

IDENTIFICATION AND TREATMENT OF DRUG AND ALCOHOL DEPENDENT PERSONS IN THE ARMED FORCES

Pub. L. 92–129, title V, § 501, Sept. 28, 1971, 85 Stat. 361, provided that:

"(a) The Secretary of Defense shall prescribe and implement procedures, utilizing all practical available methods, and provide necessary facilities to (1) identify, treat, and rehabilitate members of the Armed Forces who are drug or alcohol dependent persons, and (2) identify those individuals examined at Armed Forces examining and entrance stations who are drug or alcohol dependent persons. Those individuals found to be drug or alcohol dependent persons under clause (2) of the preceding sentence shall be refused entrance into the Armed Forces and referred to civilian treatment facilities.

"(b) The Secretary of Defense shall report to Congress within 60 days after the date of the enactment of this Act [Sept. 28, 1971] with respect to (1) the plans and programs which have been initiated to carry out the purposes of subsection (a) of this section, and (2) such recommendations for additional legislative action as he deems necessary to combat effectively drug and alcohol dependence in the Armed Forces and to treat and rehabilitate effectively any member found to be a drug or alcohol dependent person."

§ 1072. Definitions.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2114 of this title.

§ 1073. Administration of sections 1071–1087 of this title.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 1074. Medical and dental care for members and certain former members.

STUDY OF MEDICAL NEEDS OF ARMED FORCES; REPORT TO PRESIDENT AND CONGRESS BY MARCH 28, 1972

Pub. L. 92–129, title I, § 101(c), Sept. 28, 1971, 85 Stat. 354, provided that "The Secretary of Defense and the Secretary of Health, Education, and Welfare shall conduct a joint study of practicable means of meeting the medical needs of the Armed Forces through means which would require less dependence on medical personnel of the Armed Forces. In carrying out such study special consideration shall be given to the feasibility of providing medical care for military personnel and their dependents under contracts with clinics, hospitals, and individual members of the medical profession at or near United States military installations within and outside the United States. The results of such study, together with such recommendations as the Secretary of Defense and the Secretary of Health, Education, and Welfare deem appropriate, shall be submitted to the President and the Congress not later than six months after the date of enactment of this subsection [Sept. 28, 1971]."

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (b) of this section to approve uniform rates of reimbursement for care provided in facilities operated by the Administrator of Veterans Affairs delegated to the Administrator of Veterans Affairs see section 7(a) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1079. Contracts for medical care for spouses and children: plans.

* * * * *

(g) When a member dies while he is eligible for receipt of hostile fire pay under section 310 of title 37, United States Code, or from a disease or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) of this section shall continue to be eligible for such benefits until they pass their twenty-first birthday. (As amended Pub. L. 92–58, § 1, July 29, 1971, 85 Stat. 157.)

AMENDMENTS

1971—Subsec. (g). Pub. L. 92–58 added subsec. (g).

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92–58 provided that: "This Act [adding subsec. (g)] becomes effective as of January 1, 1967. However, no person is entitled to any benefits because of this Act for any period before the date of enactment [July 29, 1971]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1080, 1081, 1082, 1083, 1086 of this title; title 42 section 300e–1.

§ 1082. Contracts for health care: advisory committees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1085. Medical and dental care from another executive department: reimbursement.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under this section to establish uniform rates of reimbursement for inpatient medical or dental care delegated to the Secretary of Health, Education, and Welfare in respect of such care in a facility under his jurisdiction and to the Secretary of Defense in respect of such care in a facility of an armed force under the jurisdiction of a military department, see section 6 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1086. Contracts for health benefits for certain members, former members, and their dependents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 300e–1.

Chapter 57.—DECORATIONS AND AWARDS

§ 1124. Cash awards for suggestions, inventions, or scientific achievements.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 59.—SEPARATION

Sec.
1173. Enlisted members: discharge for hardship.

AMENDMENTS

1973—Pub. L. 93–64, title I, § 102, July 9, 1973, 87 Stat. 147, added item 1173.

§ 1173. Enlisted members: discharge for hardship.

Under regulations prescribed by the Secretary concerned, a regular enlisted member of an armed force who has dependents may be discharged for hardship. (Added Pub. L. 93–64, title I, § 102, July 9, 1973, 87 Stat. 147.)

EFFECTIVE DATE

Section effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of Title 37, Pay and Allowances of the Uniformed Services.

Chapter 61.—RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY

§ 1208. Computation of service.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 1213. Effect of separation on benefits and claims.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 1216. Secretaries; powers, functions, and duties.

EX. ORD. NO. 10122. REGULATIONS GOVERNING DISABILITY PAY, HOSPITALIZATION AND RE-EXAMINATION

Ex. Ord. No. 10122, Apr. 14, 1950, 15 F.R. 2173, as amended by Ex. Ord. 10400, Sept. 27, 1952, 17 F.R. 8648; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Ex. Ord. No. 11733, July 30, 1973, 38 F.R. 20431 provided:

* * * * *

Sec. 5. All duties, powers, and functions incident to the hospitalization of members or former members of the uniformed services placed on the temporary disability retired list or permanently retired for physical disability or receiving disability retirement pay who require hospitalization for chronic diseases shall be vested in the Administrator of Veterans' Affairs: *Provided*, that all the duties, powers, and functions incident to hospitalization for such members or former members who elects to receive hospitalization in uniformed services facilities shall, subject to the availability of space and facilities and the capabilities of the medical and dental staff, be vested in the Secretary concerned: *And provided further*, that for the purpose of this order, the term "chronic disease" shall be construed to include arthritis, malignancy, psychiatric or neuropsychiatric disorder, neurological disabilities, poliomyelitis with disability residuals and degenerative diseases of the nervous system, severe injuries to the nervous system including quadriplegics, hemiplegics, and paraplegics, tuberculosis, blindness and deafness requiring definitive rehabilitation, major amputees, and such other diseases as may be so defined jointly by the Secretary of Defense, the Administrator of Veterans' Affairs, and the Federal Security Administrator and so described in appropriate regulations of the respective departments and agencies concerned. Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to the medical care of certain personnel of the Coast Guard, National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey), Public Health Service, and the former Lighthouse Service, is hereby amended to the extent necessary to conform to the provisions of this section.

Sec. 6. Except as provided in section 5 hereof with respect to hospitalization for chronic diseases, nothing in this order shall be construed to affect the duties, powers, and functions of the Public Health Service with respect to hospitalization and medical examination of members and former members of the Coast Guard and the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey) under the Public Health Service Act, approved July 1, 1944 (58 Stat. 682), as amended [section 201 et seq. of Title 42, The Public Health and Welfare], and the regulations prescribed by the said Executive Order No. 9703 of March 12, 1946.

* * * * *

Chapter 67.—RETIRED PAY FOR NON-REGULAR SERVICE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 38 sections 765, 768.

§ 1331. Age and service requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1482 of this title.

§ 1332. Computation of years of service in determining entitlement to retired pay.

* * * * *

(b) The following service may not be counted under subsection (a):

* * * * *

(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1). (As amended Dec. 26, 1974, Pub. L. 93–545, § 1, 88 Stat. 1741.)

AMENDMENTS

1974—Subsec. (b)(7). Pub. L. 93–545 added "aviation midshipman," following "flight officer,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 676, 1002, 1006, 1209, 1331, 1333, 1482, 3571, 3850, 5867, 6389, 6391, 8571, 8850 of this title; title 37 section 416.

Chapter 71.—COMPUTATION OF RETIRED PAY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 section 857a.

§ 1401. Computation of retired pay.

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes.

However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or of any other provision of law, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

Formula No.	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
1	1201 1204	Monthly basic pay [1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.[4]	As member elects— (1) 2½% of years of service credited to him under section 1208; [3] or (2) the percentage of disability on date when retired.		Excess over 75% of pay upon which computation is based.
2	1202 1205	Monthly basic pay [1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.[4]	As member elects— (1) 2½% of years of service credited to him under section 1208; [3] or (2) the percentage of disability on date when his name was placed on temporary disability retired list.	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based.
3	1331	Monthly basic pay [2] of highest grade held satisfactorily by person at any time in the armed forces.	2½% of years of service credited to him under section 1333.		Excess over 75% of pay upon which computation is based.
4	564 1255 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.	2½% of years of service that may be credited to him under section 1405 of this title.[3]		Excess over 75% of pay upon which computation is based.

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.

[2] Compute at rates applicable on date when retired pay is granted.

[3] Before applying a percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

[4] For an officer who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, compute at the highest rates of basic pay applicable to him while he served in that office. For an enlisted person who has served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, compute at the highest rate of basic pay applicable to him while he so served, if that rate is higher than the rate authorized by the table.

(As amended Oct. 2, 1972, Pub. L. 92–455, § 1, 86 Stat. 761.)

AMENDMENTS

1972—Pub. L. 92–455 substituted in the second sentence of footnote 4 of the table "chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard," for "chief master sergeant of the Air Force, or sergeant major of the Marine Corps,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 564, 1201, 1202, 1204, 1205, 1210, 1331, 1403, 1405, 8791 of this title; title 5 section 5532; title 14 section 438; title 33 section 857a; title 42 section 213a.

§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index.

* * * * *

(f) Notwithstanding any other provision of law, the monthly retired or retainer pay of a member or a former member of an armed force who initially became entitled to that pay on or after January 1, 1971, may not be less than the monthly retired or retainer pay to which he would be entitled if he had become entitled to retired or retainer pay at an earlier date, adjusted to reflect any applicable increases in such pay under this section. In computing the amount of retired or retainer pay to which such a member would have been entitled on that earlier date, the computation shall, subject to subsection (e) of this section, be based on his grade, length of service, and the rate of basic pay applicable to him at that time. This subsection does not authorize any increase in the monthly retired or retainer pay to which a member was entitled for any period prior to the effective date of this subsection. (As amended Pub. L. 94–106, title VIII, § 806, Oct. 7, 1975, 89 Stat. 538.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (f), probably means the date of enactment of subsec. (f) by Pub. L. 94–106, which was approved on Oct. 7, 1975.

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–106 added subsec. (f).

INCREASE IN CERTAIN ARMED FORCE MEMBERS' PAY AND ALLOWANCES NOT OTHERWISE TIED TO CONSUMER PRICE INDEX

Pub. L. 93–210, § 2, Dec. 28, 1973, 87 Stat. 908, provided that:

"(a) Notwithstanding any other provision of law, effective on the date of enactment of this Act [Dec. 28, 1973], the pay and allowances of members of the Armed Forces to whom this Act [this note] applies shall be increased to amounts equal to the amounts such pay and allowances would have been increased if the pay and allowances of such members had been increased, under section 1401a(b) of title 10, United States Code [subsec. (b) of this section], by the same percentage rates, consecutively compounded, that the retired pay or retainer pay of members and former members of the Armed Forces entitled to retired pay or retainer pay since October 1, 1967, has been increased, and such member shall, on and after the date of enactment of this Act [Dec. 28, 1973], have his pay and allowances increased effective the same day and by the same percentage rate that the retired pay or retainer pay of members and former members of the Armed Forces is increased under such section 1401a(b) [subsec. (b) of this section].

"(b) This section applies to members of the Armed Forces entitled to pay and allowances under either of the following provisions of law:

"(1) The Act of June 26, 1948, chapter 677 (62 Stat. 1052) [which authorized the appointment of one officer in the Regular Army in the permanent grade of general,

one officer in the Regular Air Force in the permanent grade of general, and one officer in the Regular Navy in the permanent grade of admiral].

"(2) The Act of September 18, 1950, chapter 952 (64 Stat. A224) [which authorized the appointment of Omar N. Bradley to the permanent grade of General of the Army].

"(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section [Dec. 28, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1447, 1451 of this title; title 5 section 5532.

Chapter 73.—ANNUITIES BASED ON RETIRED OR RETAINER PAY; SURVIVOR BENEFIT PLAN

Subchapter	Sec.
I. Retired Serviceman's Family Protection Plan	1431
II. Survivor Benefit Plan	1447

SUBCHAPTER I.—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

Sec.
1431. Election of annuity: members of armed forces.
1432. Election of annuity: former members of armed forces.
1433. Mental incompetency of member.
1434. Kinds of annuities that may be elected.
1435. Eligible beneficiaries.
1436. Computation of reduction in retired pay; withdrawal for severe financial hardship.
1437. Payment of annuity.
1438. Deposits for amounts not deducted.
1439. Refund of amounts deducted from retired pay.
1440. Annuities not subject to legal process.
1441. Annuities in addition to other payments.
1442. Recovery of annuity erroneously paid.
1444. Regulations; determinations.
1445. Correction of administrative deficiencies.
1446. Restriction on participation.

SUBCHAPTER II.—SURVIVOR BENEFIT PLAN

1447. Definitions.
1448. Application of Plan.
1449. Mental incompetency of member.
1450. Payment of annuity: beneficiaries.
1451. Amount of annuity.
1452. Reduction in retired or retainer pay.
1453. Recovery of annuity erroneously paid.
1454. Correction of administrative deficiencies.
1455. Regulations.

CODIFICATION

Pub. L. 92-425 amended the chapter heading without reference to the earlier amendment by Pub. L. 87-381, §§ 1(1), 6(2), (3), Oct. 4, 1961, 75 Stat. 810, 812, which substituted "Retired Serviceman's Family Protection Plan" for "Annuities Based on Retired or Retainer Pay". Amendment by Pub. L. 92-425, § 1(1), Sept. 21, 1972, 86 Stat. 706 has been executed to chapter heading as originally enacted.

AMENDMENTS

1972—Pub. L. 92-425, § 1(1), (2)(B), (C), Sept. 21, 1972, 86 Stat. 706, added analysis of subchapter II, eliminated item 1443, which read "Board of Actuaries", and struck out "reports to Congress" from item 1444.

SUBCHAPTER I.—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 38 sections 415, 503.

§ 1435. Eligible beneficiaries.

Only the following persons are eligible to be made the beneficiaries of, or to receive payments under, an annuity elected under this subchapter by a member of the armed forces:

(1) The spouse of the member on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, the spouse on that date.

(2) The children of the member who are—

(A) unmarried;

(B) under eighteen years of age, or incapable of supporting themselves because of a mental defect or physical incapacity existing before their eighteenth birthday, or at least eighteen, but under twenty-three, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution;

(C) legitimate or adopted children of, or stepchildren in fact dependent for their support upon, the member;

(D) living on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, living on that date; and

(E) born on or before the date prescribed in clause (D).

* * * * *

(As amended Sept. 21, 1972, Pub. L. 92-425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92-425 substituted "subchapter" for "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434, 1437 of this title.

§ 1436. Computation of reduction in retired pay; withdrawal for severe financial hardship.

(a) The reduction in the retired or retainer pay of any person who elects an annuity under this subchapter shall be computed by the armed force concerned as of the date when the person becomes eligible for that pay but without regard to any increase in that pay to reflect changes in the Consumer Price Index. It shall be computed under an actuarial equivalent method based on (1) appropriate actuarial tables selected by the Board of Actuaries, and (2) an interest rate of 3 percent a year, or such other rate as the Secretary of the Treasury, after considering the average yield on outstanding marketable long-term obligations of the United States during the preceding six months, may specify by August 1 of any year for the following year. The method and tables shall be those in effect on the date as of which the computation is made.

* * * * *

(As amended Sept. 21, 1972, Pub. L. 92-425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-425 substituted "subchapter" for "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1434, 1444 of this title.

§ 1437. Payment of annuity.

(a) Except as provided in subsection (b) each annuity payable under this subchapter accrues as of the first day of the month in which the person upon whose pay the annuity is based dies. Payments shall be made in equal installments and not later than the fifteenth day of each month following that month. However, no annuity accrues for the month in which entitlement thereto ends.

* * * * *

(As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–425 substituted "subchapter" for "chapter".

§ 1438. Deposits for amounts not deducted.

If, for any period, a person who has been retired or has become entitled to retired or retainer pay, and who has elected an annuity under this subchapter, is not entitled to retired or retainer pay, he must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period to provide the annuity. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8316; title 26 sections 122, 2039.

§ 1439. Refund of amounts deducted from retired pay.

If a person whose name is on the temporary disability retired list of an armed force, and who has elected an annuity under this subchapter, has his name removed from that list for any reason other than retirement or grant of retired pay, he is entitled to a refund of the difference between the amount by which his retired pay was reduced to provide the annuity and the cost of an amount of term insurance equal to the protection provided for his dependents during the period that he was on that list. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

§ 1440. Annuities not subject to legal process.

No annuity payable under this subchapter is assignable or subject to execution, levy, attachment, garnishment, or other legal process. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

§ 1441. Annuities in addition to other payments.

An annuity under this subchapter is in addition to any pension or other payment to which the beneficiary is entitled under any other provision of law, and may not be considered as income under any law administered by the Veterans' Administration. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1446 of this title.

§ 1442. Recovery of annuity erroneously paid.

In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by reduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

§ 1443. Repealed. Pub. L. 92–425, § 1(2)(B), Sept. 21, 1972, 86 Stat. 706.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 111, related to Board of Actuaries, composed of the Government Actuary, the Chief Actuary of the Social Security Administration, and an actuary who is a member of the Society of Actuaries.

§ 1444. Regulations; determinations.

(a) The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the armed forces, the Environmental Science Services Administration, and the Public Health Service.

(b) Repealed. Pub. L. 92–425, § 1(2)(C), Sept. 21, 1972, 86 Stat. 706.

(c) Determinations and certifications of eligibility for, and payments of, annuities and other payments or refunds under this subchapter shall be made by the department concerned. However, in the case of a department other than a military department, payments shall be made through the disbursing facilities of the Department of the Treasury. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), (C), 86 Stat. 706.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–425, § 1(2)(A), substituted "subchapter" for "chapter".

Subsec. (b). Pub. L. 92–425, § 1(2)(C) struck out "reports to Congress" from the section catchline, and struck out subsec. (b), which required the President to submit annual reports to Congress on the administration of this chapter.

Subsec. (c). Pub. L. 92–425, § 1(2)(A), substituted "subchapter" for "chapter".

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1434, 1436, 1445 of of this title.

§ 1445. Correction of administrative deficiencies.

Whenever he considers it necessary, the Secretary concerned may, under regulations prescribed under

section 1444(a) of this title, correct any election, or any change or revocation of an election, under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

§ 1446. Restriction on participation.

(a) Notwithstanding section 1441 of this title, if a person—

(1) has made an election under the subchapter; and

* * * * *

and thereafter dies, his beneficiaries are not entitled to the annuities provided under this subchapter until they give proof to the department concerned that they are not eligible for benefits under chapter 11 or 13 of title 38. If the beneficiaries are not eligible for benefits under chapter 11 or 13 of title 38, the annuity shall begin on the first day of the month in which the death occurs.

(b) Whenever the beneficiaries on whose behalf the election was made are restricted, under subsection (a), from participating in the annuities provided under this subchapter, the amount withheld from the elector's retired or retainer pay as a result of an election under this subchapter shall be refunded to the beneficiaries, less the amount of any annuities paid under this subchapter, and in either case without interest. (As amended Sept. 21, 1972, Pub. L. 92–425, § 1(2)(A), 86 Stat. 706.)

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter" wherever appearing.

SUBCHAPTER II.—SURVIVOR BENEFIT PLAN

§ 1447. Definitions.

In this subchapter:

(1) "Plan" means the Survivor Benefit Plan established by this subchapter.

(2) "Base amount" means—

(A) the amount of monthly retired or retainer pay to which a person—

(i) was entitled when he became eligible for that pay; or

(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list; or

(B) any amount less than that described by clause (A) designated by that person on or before the first day for which he became eligible for retired or retainer pay, but not less than $300;

as increased from time to time under section 1401a of this title.

(3) "Widow" means the surviving wife of a person who, if not married to the person at the time he became eligible for retired or retainer pay—

(A) was married to him for at least two years immediately before his death; or

(B) is the mother of issue by that marriage.

(4) "Widower" means the surviving husband of a person who, if not married to the person at the time she became eligible for retired or retainer pay—

(A) was married to her for at least two years immediately before her death; or

(B) is the father of issue by that marriage.

(5) "Dependent child" means a person who is—

(A) unmarried;

(B) (i) under 18 years of age; (ii) at least 18, but under 22, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution; or (iii) incapable of supporting himself because of a mental or physical incapacity existing before his eighteenth birthday or incurred on or after that birthday, but before his twenty-second birthday, while pursuing such a full-time course of study or training; and

(C) the child of a person to whom the Plan applies, including (i) an adopted child, and (ii) a stepchild, foster child, or recognized natural child who lived with that person in a regular parent-child relationship.

For the purpose of this clause, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. A child who is a student is considered not to have ceased to be a student during an interim between school years if the interim is not more than 150 days and if he shows to the satisfaction of the Secretary of Defense that he has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim. Under this clause, a foster child, to qualify as the dependent child of a person to whom the Plan applies, must, at the time of the death of that person, also reside with, and receive over one-half of his support from, that person, and not be cared for under a social agency contract. The temporary absence of a foster child from the residence of that person, while he is a student as described in this clause, will not be considered to affect the residence of such a foster child. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 706.)

§ 1448. Application of Plan.

(a) The Plan applies to a person who is married or has a dependent child when he becomes entitled to retired or retainer pay unless he elects not to participate in the Plan before the first day for which he is eligible for that pay. If a person who is married elects not to participate in the Plan at the maximum level, that person's spouse shall be notified of the decision. An election not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or re-

tainer pay. However, a person who is not married when he becomes entitled to retired or retainer pay but who later marries, or acquires a dependent child, may elect to participate in the Plan but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries, or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the month after his election is received by the Secretary concerned.

(b) A person who is not married and does not have a dependent child when he becomes entitled to retired or retainer pay may elect to provide an annuity to a natural person with an insurable interest in that person.

(c) The application of the Plan to a person whose name is on the temporary disability retired list terminates when his name is removed from that list and he is no longer entitled to retired pay.

(d) If a member of an armed force dies on active duty after he has become entitled to retired or retainer pay, or after he has qualified for that pay except that he has not applied for or been granted that pay, and his spouse is eligible for dependency and indemnity compensation under section 411(a) of title 38 in an amount that is less than the annuity the spouse would have received under this subchapter if it had applied to the member when he died, the Secretary concerned shall pay to the spouse an annuity equal to the difference between that amount of compensation and 55 percent of the retired or retainer pay to which the otherwise eligible spouse described in section 1450(a)(1) of this title would have been entitled if the member had been entitled to that pay based upon his years of active service when he died. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 707.)

ELECTION TO PARTICIPATE IN THE SURVIVOR BENEFIT PLAN AND WITHDRAW FROM THE RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

Section 3 of Pub. L. 92–425, as amended by Pub. L. 93–155, title VIII, § 804, Nov. 6, 1973, 87 Stat. 615, provided that:

"(a) The Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter] applies to any person who initially becomes entitled to retired or retainer pay on or after the effective date of this Act [Sept. 21, 1972]. An election made before that date by such a person under section 1431 of title 10, United States Code, is canceled. However, a person who initially becomes entitled to retired or retainer pay within 180 days after the effective date of this Act [Sept. 21, 1972] may, within 180 days after becoming so entitled, elect—

"(1) not to participate in such Survivor Benefit Plan if he is married or has a dependent child; or

"(2) to participate in that Plan, if he is a person covered by section 1448(b) of title 10, United States Code.

"(b) Any person who is entitled to retired or retainer pay on the effective date of this Act [Sept. 21, 1972] may elect to participate in the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter] at any time within eighteen months after such date. However, such a person who is receiving retired or retainer pay reduced under section 1436(a) of title 10, United States Code, or who is depositing amounts under section 1438 of that title, may elect at any time within eighteen months after the effective date of this Act [Sept. 21, 1972]—

"(1) to participate in the Plan and continue his participation under chapter 73 of that title [this chapter] as in effect on the day before the effective date of this Act [Sept. 21, 1972], except that the total of the annuities elected may not exceed 100 percent of his retired or retainer pay; or

"(2) to participate in the Plan and, notwithstanding section 1436(b) of that title, terminate his participation under chapter 73 of that title [this chapter] as in effect on the day before the effective date of this Act [Sept. 21, 1972].

A person who elects under clause (2) of this subsection is not entitled to a refund of amounts previously deducted from his retired or retainer pay under chapter 73 of title 10, United States Code [this chapter], as in effect on the day before the effective date of this Act [Sept. 21, 1972], or any payments made thereunder on his behalf. A person who is not married or does not have a dependent child on the first anniversary of the effective date of this Act [Sept. 21, 1972], but who later marries or acquires a dependent child, may elect to participate in the Plan under the fourth sentence of section 1448(a) of that title [subsec. (a) of this section].

"(c) Notwithstanding the provisions of the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter], and except as otherwise provided in this section, subchapter I of chapter 73 of title 10, United States Code [subchapter I of this chapter] (other than the last two sentences of section 1436(a), section 1443, and section 1444(b)), as in effect on the day before the effective date of this Act [Sept. 21, 1972], shall continue to apply in the case of persons, and their beneficiaries, who have elected annuities under section 1431 or 1432 of that title and who have not elected under subsection (b)(2) of this section to participate in that Plan.

"(d) In this section, 'base amount' means—

"(1) the monthly retired or retainer pay to which a person—

"(A) is entitled on the effective date of this Act [Sept. 21, 1972]; or

"(B) later becomes entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list; or

"(2) any amount less than that described in clause (1) designated by that person at the time he makes an election under subsection (a)(2) or (b) of this section, but not less than $300;

as increased from time to time under section 1401a of title 10, United States Code.

"(e) An election made under subsection (a) or (b) of this section is effective on the date it is received by the Secretary concerned, as defined in section 101(5) of title 37, United States Code.

"(f) Sections 1449, 1453, and 1454 of title 10, United States Code, as added by clause (3) of the first section of this Act [as part of this subchapter], are applicable to persons covered by this section."

INCOME SUPPLEMENT FOR CERTAIN WIDOWS OF RETIRED MEMBERS OF THE UNIFORMED FORCES; SPECIAL ANNUITY FOR WIDOWS OF COMMISSIONED PERSONNEL OF THE PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION IN LIEU OF VA PENSION

Section 4 of Pub. L. 92–425 provided that:

"(a) A person—

"(1) who, on the effective date of this Act [Sept. 21, 1972], is, or within one calendar year after that date becomes, a widow of a person who was entitled to retired or retainer pay when he died;

"(2) who is eligible for a pension under subchapter III of chapter 15 of title 38, United States Code, or section 9(b) of the Veterans' Pension Act of 1959 (73 Stat. 436) [set out as note under section 521 of Title 38]; and

"(3) whose annual income, as determined in establishing that eligibility, is less than $1,400;

shall be paid an annuity by the Secretary concerned unless she is eligible to receive an annuity under the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter]. However, such a person who is the widow of a retired officer of the Public Health Service or the National Oceanic and Atmospheric Administration, and who would otherwise be eligible for an annuity under this section except that she does not qualify for the pension described in clause (2)

of this subsection because the service of her deceased spouse is not considered active duty under section 101(21) of title 38, United States Code, is entitled to an annuity under this section.

"(b) The annuity under subsection (a) of this section shall be in an amount which when added to the widow's income determined under subsection (a)(3) of this section, plus the amount of any annuity being received under sections 1431–1436 of title 10, United States Code, but exclusive of a pension described in subsection (a)(2) of this section, equals $1,400 a year. In addition, the Secretary concerned shall pay to the widow, described in the last sentence of subsection (a) of this section, an amount equal to the pension she would otherwise have been eligible to receive under subchapter III of chapter 15 of title 38, United States Code, if the service of her deceased spouse was considered active duty under section 101(21) of that title [section 101(21) of Title 38]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1449 to 1452, 1455 of this title.

§ 1449. Mental incompetency of member.

If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Veterans' Administration, or by a court of competent jurisdiction, any election described in the first sentence of subsection (a), or subsection (b), of section 1448 of this title may be made on behalf of that person by the Secretary concerned. If the person for whom the Secretary has made an election is later determined to be mentally competent by an authority named in the first sentence, he may, within 180 days after that determination revoke that election. Any deductions made from retired or retainer pay by reason of such an election will not be refunded. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1450 of this title.

§ 1450. Payment of annuity: beneficiaries.

(a) Effective as of the first day after the death of a person to whom section 1448 of this title applies, a monthly annuity under section 1451 of this title shall be paid to—

(1) the eligible widow or widower;

(2) the surviving dependent children in equal shares, if the eligible widow or widower is dead, dies, or otherwise becomes ineligible under this section; or

(3) the natural person designated under section 1448(b) of this title at the time the person to whom section 1448 applies became entitled to retired or retainer pay, if there is no eligible beneficiary under clause (1) or (2).

(b) An annuity payable to the beneficiary terminates effective as of the first day of the month in which eligibility is lost. An annuity for a widow or widower shall be paid to the widow or widower while the widow or widower is living or, if the widow or widower remarries before reaching age 60, until the widow or widower remarries. If the widow or widower remarries before reaching age 60 and that marriage is terminated by death, annulment, or divorce, payment of the annuity will be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the widow or widower is also entitled to an annuity under this section based upon the marriage so terminated, the widow or widower may not receive both annuities but must elect which to receive.

(c) If, upon the death of a person to whom section 1448 of this title applies, the widow or widower of that person is also entitled to compensation under section 411(a) of title 38, the widow or widower may be paid an annuity under this section, but only in the amount that the annuity otherwise payable under this section would exceed that compensation.

(d) If, upon the death of a person to whom section 1448 of this title applies, that person had in effect a waiver of his retired or retainer pay for the purposes of subchapter III of chapter 83 of title 5, an annuity under this section shall not be payable unless, in accordance with section 8339(i) of title 5, he notified the Civil Service Commission that he did not desire any spouse surviving him to receive an annuity under section 8341(b) of that title.

(e) If no annuity under this section is payable because of subsection (c), any amounts deducted from the retired or retainer pay of the deceased under section 1452 of this title shall be refunded to the widow or widower. If, because of subsection (c), the annuity payable is less than the amount established under section 1451 of this title, the annuity payable shall be recalculated under that section. The amount of the reduction in the retired or retainer pay required to provide that recalculated annuity shall be computed under section 1452 of this title, and the difference between the amount deducted prior to the computation of that recalculated annuity and the amount that would have been deducted on the basis of that recalculated annuity shall be refunded to the widow or widower.

(f) An unmarried person who elects to provide an annuity to a person designated by him under subsection (a)(3), but who later marries or acquires a dependent child, may change that election and provide an annuity to his spouse or dependent child. A change of election under this subsection is subject to the rules with respect to execution, revocation, and effectiveness set forth in the last three sentences of section 1448(a) of this title.

(g) Except as provided in section 1449 of this title or in subsection (f) of this section, an election under this section may not be changed or revoked.

(h) Except as provided in section 1451 of this title, an annuity under this section is in addition to any other payment to which a person is entitled under any other provision of law. Such annuity shall be considered as income under laws administered by the Veterans' Administration.

(i) An annuity under this section is not assignable or subject to execution, levy, attachment, garnishment, or other legal process. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1448, 1451, 1452 of this title.

§ 1451. Amount of annuity.

(a) If the widow or widower is under age 62 or there is a dependent child, the monthly annuity payable to the widow, widower, or dependent child, under section 1450 of this title shall be equal to 55

percent of the base amount. However, when the widow has one dependent child, the monthly annuity shall be reduced by an amount equal to the mother's benefit, if any, to which the widow would be entitled under subchapter II of chapter 7 of title 42 based solely upon service by the person concerned as described in section 410(*l*)(1) of title 42 and calculated assuming that the person concerned lived to age 65. When the widow or widower reaches age 62, or there is no longer a dependent child, whichever occurs later, the monthly annuity shall be reduced by an amount equal to the amount of the survivor benefit, if any, to which the widow or widower would be entitled under subchapter II of chapter 7 of title 42 based solely upon service by the person concerned as described in section 410(*l*)(1) of title 42 and calculated assuming that the person concerned lived to age 65. For the purpose of the preceding sentence, a widow or widower shall be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 even though that benefit has been offset by deductions under section 403 of title 42 on account of work.

(b) The monthly annuity payable under section 1450(a)(3) of this title shall be 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in that retired or retainer pay in accordance with section 1452(c) of this title.

(c) Whenever retired or retainer pay is increased under section 1401a of this title, each annuity that is payable under this section, or section 1448(d) of this title, on the day before the effective day of that increase shall be increased at the same time by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under section 1448(d) or 1450(c) of this title, or subsection (a) of this section. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 709).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1450 of this title.

§ 1452. Reduction in retired or retainer pay.

(a) The retired or retainer pay of a person to whom section 1448 of this title applies who has a spouse, or who has a spouse and a dependent child, and who has not elected to provide an annuity to a person designated by him under section 1450(a)(3) of this title, or who had elected to provide such an annuity to such a person but has changed his election in favor of his spouse under section 1450(f) of this title, shall be reduced each month by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount. As long as there is an eligible spouse and a dependent child, that amount shall be increased by an amount prescribed under regulations of the Secretary of Defense.

(b) The retired or retainer pay of a person to whom section 1448 of this title applies who has a dependent child but does not have an eligible spouse, shall, as long as he has an eligible dependent child, be reduced by an amount prescribed under regulations of the Secretary of Defense.

(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(3) of this title shall be reduced by 10 percent plus 5 percent for each full 5 years the individual designated is younger than that person. However, the total reduction may not exceed 40 percent.

(d) If a person who has elected to participate in the Plan has been awarded retired or retainer pay and is not entitled to that pay for any period, he must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period, except when he is called or ordered to active duty for a period of more than 30 days.

(e) When a person who has elected to participate in the Plan waives his retired or retainer pay for the purposes of subchapter III of chapter 83 of title 5, he shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(i) of title 5, he has notified the Civil Service Commission that he does not desire any spouse surviving him to receive an annuity under section 8341(b) of title 5.

(f) Except as provided in section 1450(e) of this title, a person is not entitled to any refunds of amounts deducted from retired or retainer pay under this section unless the amounts were deducted through administrative error. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1450, 1451, 1455 of this title; title 26 sections 122, 2039.

§ 1453. Recovery of annuity erroneously paid.

In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 710.)

§ 1454. Correction of administrative deficiencies.

The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 711.)

§ 1455. Regulations.

The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service. Those regulations shall—

(1) provide that, when the notification referred to in section 1448(a) of this title is required, the member and his spouse shall, before the date the member becomes entitled to retired or retainer

pay, be informed of the elections available and the effects of such elections; and

(2) establish procedures for depositing the amounts referred to in section 1452(d) of this title. (Added Pub. L. 92–425, § 1(3), Sept. 21, 1972, 86 Stat. 711.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1454 of this title.

Chapter 75.—DEATH BENEFITS

§ 1481. Recovery, care, and disposition of remains: decedents covered.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1482 of this title.

§ 1482. Expenses incident to death.

* * * * *

(e) When the remains of a decedent covered by section 1481 of this title, whose death occurs after January 1, 1961, are determined to be nonrecoverable, the person who would have been designated under subsection (c) to direct disposition of the remains if they had been recovered may be—

(1) presented with a flag of the United States; however, if the person designated by subsection (c) is other than a parent of the deceased member, a flag of equal size may also be presented to the parents, and

(2) reimbursed by the Secretary concerned for the necessary expenses of a memorial service.

However, the amount of the reimbursement shall be determined in the manner prescribed in subsection (b) for an interment, but may not be larger than that authorized when the United States provides the grave site. A claim for reimbursement under this subsection may be allowed only if it is presented within two years after the effective date of this subsection, or the date of death, or the date the person who would have been designated under subsection (c) to direct disposition of the remains, if they had been recovered, receives notification that the member has been reported or determined to be dead under authority of chapter 10, title 37, whichever is later.

(f) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

(1) was a member of the Ready Reserve; or

(2) had performed at least twenty years of service as computed under section 1332 of this title and was not entitled to retired pay under section 1331 of this title.

(As amended May 28, 1974, Pub. L. 93–292, 88 Stat. 176; Jan. 8, 1975, Pub. L. 93–649, 88 Stat. 2361.)

AMENDMENTS

1975—Subsec. (e). Pub. L. 93–649 added the provision relating to the date of notification of death under authority of chapter 10, title 37, to that person who would have been designated under subsection (c) to direct disposition of the remains, had they been recovered.

1974—Subsec. (f). Pub. L. 93–292 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 901.

Chapter 77.—POSTHUMOUS COMMISSIONS AND WARRANTS

§ 1523. Posthumous commissions and warrants: effect on pay and allowances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 37 section 552.

PART III.—TRAINING

Chap.		Sec.
104.	Uniformed Services University of the Health Sciences	2112
105.	Armed Forces Health Professions Scholarship Program	2120

AMENDMENTS

1972—Analysis of Part III of subtitle A amended by Pub. L. 92–426, § 2(b), Sept. 21, 1972, 86 Stat. 719, which added chapters 104 and 105.

Chapter 101.—TRAINING GENERALLY

Sec.
2003. Aeronautical rating as pilot; qualifications.
2004. Detail of commissioned officers of the military departments as students at law schools.

AMENDMENTS

1973—Pub. L. 93–155, title VIII, § 817(b), Nov. 16, 1973, 87 Stat. 622, added item 2004.

1971—Pub. L. 92–168, § 4(2), Nov. 24, 1971, 85 Stat. 489, added item 2003.

§ 2003. Aeronautical rating as pilot; qualifications.

To be eligible to receive an aeronautical rating as a pilot in the Army or Air Force or be designated as a naval aviator, a member of an armed force must successfully complete an undergraduate pilot course of instruction prescribed or approved by the Secretary of his military department. (Added Pub. L. 92–168, § 4(1), Nov. 24, 1971, 85 Stat. 489.)

§ 2004. Detail of commissioned officers of the military departments as students at law schools.

(a) The Secretary of each military department may, under regulations prescribed by the Secretary of Defense, detail commissioned officers of the armed forces as students at accredited law schools, located in the United States, for a period of training leading to the degree of bachelor of laws or juris doctor. No more than twenty-five officers from each military department may commence such training in any single fiscal year.

(b) To be eligible for detail under subsection (a), an officer must be a citizen of the United States and must—

(1) have served on active duty for a period of not less than two years nor more than six years and be in the pay grade O–3 or below as of the time the training is to begin; and

(2) sign an agreement that unless sooner separated he will—

(A) complete the educational course of legal training;

(B) accept transfer or detail as a judge advocate or law specialist within the department concerned when his legal training is completed; and

(C) agree to serve on active duty following completion or other termination of training for a period of two years for each year or part thereof of his legal training under subsection (a).

(c) Officers detailed for legal training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense. Any service obligation incurred by an officer under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by any such officer under any other provision of law or agreement.

(d) Expenses incident to the detail of officers under this section shall be paid from any funds appropriated for the military department concerned.

(e) An officer who, under regulations prescribed by the Secretary of Defense, is dropped from the program of legal training authorized by subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by regulations issued by the Secretary of Defense, except that in no case shall any such member be required to serve on active duty for any period in excess of one year for each year or part thereof he participated in the program.

(f) No agreement detailing any officer of the armed forces to an accredited law school may be entered into during any period that the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces. (Added Pub. L. 93–155, title VIII, § 817(a), Nov. 16, 1973, 87 Stat. 621.)

SELECTION OF OFFICERS IN MISSING STATUS FOR LEGAL TRAINING ON A NON-COMPETITIVE BASIS; EXEMPTION FROM NUMERICAL LIMITATIONS

Section 821 of Pub. L. 94–106, title VIII, Oct. 7, 1975, 89 Stat. 545, provided that: "Notwithstanding any provision of section 2004 of title 10 United States Code [this section], an officer in any pay grade who was in a missing status (as defined in section 551(2) of title 37, United States Code) after August 4, 1964, and before May 8, 1975, may be selected for detail for legal training under that section 2004 on other than a competitive basis and, if selected for that training, is not counted in computing, for the purpose of subsection (a) of that section 2004 [subsec. (a) of this section], the number of officers who may commence that training in any single fiscal year. For the purposes of determining eligibility under that section 2004, the period of time during which an officer was in that missing status may be disregarded in computing the period he has served on active duty."

Chapter 102.—JUNIOR RESERVE OFFICERS' TRAINING CORPS

§ 2031. Junior Reserve Officers' Training Corps.

* * * * *

(b) No unit may be established or maintained at an institution unless—

(1) the unit contains at least 100 physically fit students who are at least 14 years of age and are citizens of the United States;

* * * * *

(As amended Pub. L. 93–165, Nov. 29, 1973, 87 Stat. 660.)

AMENDMENTS

1973—Subsec. (b)(1). Pub. L. 93–165 substituted "physically fit students" for "physically fit male students".

Chapter 103.—SENIOR RESERVE OFFICERS' TRAINING CORPS

§ 2103. Eligibility for membership.

LOYALTY OATH BY STUDENTS IN BASIC COURSES OF SENIOR DIVISION

Pub. L. 93–437, title VIII, § 822, Oct. 8, 1974, 88 Stat. 1228, provided that: "No part of the funds appropriated herein [Department of Defense Appropriation Act, 1975] shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense."

Similar provisions were contained in the following prior acts:

Jan. 2, 1974, Pub. L. 93–238, title VII, § 723, 87 Stat. 1042.

Oct. 26, 1972, Pub. L. 92–570, title VII, § 723, 86 Stat. 1199.

Dec. 18, 1971, Pub. L. 92–204, title VII, § 723, 85 Stat. 731.

§ 2107. Financial assistance program for specially selected members.

(a) The Secretary of the military department concerned may appoint as a cadet or midshipman, as appropriate, in the reserve of an armed force under his jurisdiction any eligible member of the program who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as an ensign in the Navy or as a second lieutenant in the Army, Air Force, or Marine Corps, as the case may be. Not more than 20 percent of the persons appointed as cadets or midshipmen by the Secretary in any year may be appointed from persons in the two-year Senior Reserve Officers' Training Corps course.

* * * * *

(c) The Secretary of the military department concerned may provide for the payment of all expenses in his department of administering the financial assistance program under this section, including tuition, fees, books, and laboratory expenses. At least 50 percent of the cadets and midshipmen appointed under this section must qualify for in-State tuition rates at their respective institutions and will receive tuition benefits at that rate.

* * * * *

(h) Not more than the following numbers of cadets and midshipmen appointed under section 2107 of this title may be in the financial assistance programs at any one time:

Army program: 6,500.

Navy program: 6,000.

Air Force program: 6,500.

(As amended Pub. L. 92–166, §1, Nov. 24, 1971, 85 Stat. 487.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–166, § 1(1), substituted "Not more than 20 percent of the persons appointed as cadets or midshipmen by the Secreatry in any year may be appointed from persons in the two-year Senior Reserve Officers' Training Corps course.", for "However, a member whose enrollment in the Senior Reserve Officers' Training Corps program contemplates less than four years of participation in the program may not be appointed a cadet or midshipman under this section, or receive any financial assistance authorized by this section.".

Subsec. (c). Pub. L. 92–166, § 1(2), provided that at least 50% of the cadets and midshipmen appointed under this section must qualify for in-State tuition rates at

their respective institutions and will receive tuition benefits at the rate.

Subsec. (h). Pub. L. 92–166, § 1(4), substituted "Army program: 6500" for "Army program: 5500", "Navy program: 6000" for "Navy program: 5500" and "Air Force program: 6500" for "Air Force program: 5500".

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92–166 provided that: "This Act [amending this section] is effective July 1, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2106, 5504, 5652b, 6387 of this title; title 37 sections 209, 415, 416, 422.

Chapter 104.—UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sec.
2112. Establishment.
2113. Board of Regents.
2114. Students: selection; status; obligation.
2115. Graduates: limitation on number electing to perform civilian Federal duty.
2116. Reports to Congress.
2117. Authorization for appropriations.

§ 2112. Establishment.

(a) There is hereby authorized to be established within 25 miles of the District of Columbia a Uniformed Services University of the Health Sciences (hereinafter referred to as the "University"), at a site or sites to be selected by the Secretary of Defense, with authority to grant appropriate advanced degrees. It shall be so organized as to graduate not less than 100 medical students annually, with the first class graduating not later than 10 years after the date of the enactment of this chapter.

(b) Except as provided in subsection (a), the numbers of persons to be graduated from the University shall be prescribed by the Secretary of Defense.

(c) The development of the University may be by such phases as the Secretary of Defense may prescribe subject to the requirements of subsection (a). (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 713.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (a), is the date of enactment of Pub. L. 92–426, which was approved Sept. 21, 1972.

SHORT TITLE

Section 1 of Pub. L. 92–426 provided: "That this Act [enacting this chapter and chapter 105 of this title] may be cited as the 'Uniformed Services Health Professions Revitalization Act of 1972'."

§ 2113. Board of Regents.

(a) The business of the University shall be conducted by a Board of Regents (hereinafter referred to as the "Board") with funds appropriated for and provided by the Department of Defense. The Board shall consist of—

(1) nine persons outstanding in the fields of health and health education who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate;

(2) the Secretary of Defense, or his designee, who shall be an ex officio member;

(3) the surgeons general of the uniformed services, who shall be ex officio members; and

(4) the person referred to in subsection (d).

(b) The term of office of each member of the Board (other than ex officio members) shall be six years except that—

(1) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of office of the members first taking office shall expire, as designated by the President at the time of the appointment, three at the end of two years, three at the end of four years, and three at the end of six years.

(c) One of the members of the Board (other than an ex officio member) shall be designated by the President as Chairman. He shall be the presiding officer of the Board.

(d) The Board shall appoint a Dean of the University (hereinafter referred to as the "Dean") who shall also serve as a nonvoting ex officio member of the Board.

(e) Members of the Board (other than ex officio members) while attending conferences or meetings or while otherwise performing their duties as members shall be entitled to receive compensation at a rate to be fixed by the Secretary of Defense, but not exceeding $100 per diem and shall also be entitled to receive an allowance for necessary travel expenses while so serving away from their place of residence.

(f) The Board, after considering the recommendations of the Dean, shall obtain the services of such military and civilian professors, instructors, and administrative and other employees as may be necessary to operate the University. Civilian members of the faculty and staff shall be employed under salary schedules and granted retirement and other related benefits prescribed by the Secretary of Defense so as to place the employees of the University on a comparable basis with the employees of fully accredited schools of the health professions within the vicinity of the District of Columbia. The Board may confer academic titles, as appropriate, upon military and civilian members of the faculty. The military members of the faculty shall include a professor of military, naval, or air science as the Board may determine.

(g) The Board is authorized to negotiate agreements with agencies of the Federal Government to utilize on a reimbursable basis appropriate existing Federal medical resources located in or near the District of Columbia. Under such agreements the facilities concerned will retain their identities and basic missions. The Board is also authorized to negotiate affiliation agreements with an accredited university or universities in or near the District of Columbia. Such agreements may include provisions for payments for educational services provided students participating in Department of Defense educational programs. The Board may also, subject to the approval of the Secretary of Defense, enter into an agreement under which the University would become part of a national university of health sciences should such an institution be established in the vicinity of the District of Columbia.

(h) The Board may establish postdoctoral, postgraduate, and technological institutes.

(i) The Board shall also establish programs in continuing medical education for military members of the health professions to the end that high standards of health care may be maintained within the military

medical services. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 714.)

§ 2114. Students: selection; status; obligation.

(a) Students at the University shall be selected under procedures prescribed by the Secretary of Defense. In so prescribing, the Secretary shall consider the recommendations of the Board. However, selection procedures prescribed by the Secretary of Defense shall emphasize the basic requirement that students demonstrate sincere motivation and dedication to a career in the uniformed services (as defined in section 1072(1) of this title).

(b) Students shall be commissioned officers of a uniform service as determined under regulations prescribed by the Secretary of Defense after consulting with the Secretary of Health, Education, and Welfare. Notwithstanding any other provision of law, they shall serve on active duty in pay grade O–1 with full pay and allowances of that grade, but shall not be counted against any prescribed military strengths. Upon graduation they shall be appointed in a regular component, if qualified, unless they are covered by section 2115 of this title. Students who graduate shall be required, except as provided in section 2115 of this title, to serve thereafter on active duty under such regulations as the Secretary of Defense or the Secretary of Health, Education, and Welfare, as appropriate, may prescribe for not less than seven years, unless sooner released. The service credit exclusions specified in section 2126 of this title shall apply to students covered by this section

(c) A period of time spent in military intern or residency training shall not be creditable in satisfying an active duty obligation imposed by this section.

(d) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section. In no case shall any such member be required to serve on active duty for any period in excess of a period equal to the period he participated in the program, except that in no case may any such member be required to serve on active duty less than one year. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 715.)

§ 2115. Graduates: limitation on number electing to perform civilian Federal duty.

Not more than 20 percent of the graduates of any one class at the University may agree in writing to perform civilian Federal duty for not less than seven years following the completion of their professional education in lieu of active duty in a uniformed service. Such persons shall be released from active duty upon the completion of their professional education. The location and type of their duty shall be determined by the Secretary of Defense after consultation with the heads of Federal agencies concerned. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 716.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2114 of this title.

§ 2116. Reports to Congress.

The Secretary of Defense shall report periodically to the Committees on Armed Services of the Senate and House of Representatives on the feasibility of establishing educational institutions similar or identical to the University at any other locations he deems appropriate. The last such report shall be submitted by June 30, 1976. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 716.)

§ 2117. Authorization for appropriations.

There is hereby authorized to be appropriated to the Department of Defense for the planning, construction, development, improvement, operation, and maintenance of the University, and to otherwise accomplish the purposes of this title, for the fiscal year beginning July 1, 1972, the sum of $15,000,000, and for each fiscal year thereafter such sum as may be authorized in the annual military construction authorization Act for such year. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 716.)

Chapter 105.—ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP

Sec.
2120. Definitions.
2121 Establishment.
2122. Eligibility for participation.
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§ 2120. Definitions.

In this chapter—

(1) "Program" means the Armed Forces Health Professions Scholarship program provided for in this chapter.

(2) "Member of the program" means a person appointed a commissioned officer in a reserve component of the armed forces who is enrolled in the Armed Forces Health Professions Scholarship program.

(3) "Course of study" means education received at an accredited college, university, or institution in medicine, dentistry, or other health profession, leading, respectively, to a degree related to the health professions as determined under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 717.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2122 of this title.

§ 2121. Establishment.

(a) For the purpose of obtaining adequate numbers of commissioned officers on active duty who are qualified in the various health professions, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, may establish and maintain a health professions scholarship program for his department.

(b) The program shall consist of courses of study in designated health professions, with obligatory periods of military training.

(c) Persons participating in the program shall be commissioned officers in reserve components of the armed forces. Members of the program shall serve on active duty in pay grade O–1 with full pay and allowances of that grade for a period of 45 days during each year of participation in the program. They shall be detailed as students at accredited civilian institutions, located in the United States or Puerto Rico, for the purpose of acquiring knowledge or training in a designated health profession. In addition, members of the program shall, under regulations prescribed by the Secretary of Defense, receive military and professional training and instruction.

(d) Except when serving on active duty pursuant to subsection (c), a member of the program shall be entitled to a stipend at the rate of $400 per month. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 717.)

§ 2122. Eligibility for participation.

To be eligible for participation as a member of the program, a person must be a citizen of the United States and must—

(1) be accepted for admission to, or enrolled in, an institution in a course of study, as that term is defined in section 2120(3) of this title;

(2) sign an agreement that unless sooner separated he will—

(A) complete the educational phase of the program;

(B) accept an appropriate reappointment or designation within his military service, if tendered, based upon his health profession, following satisfactory completion of the program;

(C) participate in the intern program of his service if selected for such participation;

(D) participate in the residency program of his service, if selected, or be released from active duty for the period required to undergo civilian residency if selected for such training; and

(E) because of his sincere motivation and dedication to a career in the uniformed services, participate in military training while he is in the program, under regulations prescribed by the Secretary of Defense; and

(3) meet the requirements for appointment as a commissioned officer.

(Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 717.)

§ 2123. Members of the program: active duty obligation; failure to complete training; release from program.

(a) A member of the program incurs an active duty obligation. The amount of his obligation shall be determined under regulations prescribed by the Secretary of Defense, but those regulations may not provide for a period of obligation of less than one year for each year of participation in the program.

(b) A period of time spent in military intern or residency training shall not be creditable in satisfying an active duty obligation imposed by this section.

(c) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section.

(d) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member of the program who is dropped from the program from an active duty obligation imposed by this section, but such relief shall not relieve him from any military obligation imposed by any other law.

(e) Any member of the program relieved of his active duty obligation under this chapter before the completion of such obligation may, under regulations prescribed by the Secretary of Defense, be assigned to an area of health manpower shortage designated by the Secretary of Health, Education, and Welfare for a period equal to the period of obligation from which he was relieved. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 718.)

§ 2124. Members of the program: numbers appointed.

The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this chapter shall not, at any time, exceed 5,000. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 718.)

§ 2125. Members of the program: exclusion from authorized strengths.

Notwithstanding any other provision of law, members of the program shall not be counted against any prescribed military strengths. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 718.)

§ 2126. Members of the program: service credit.

Service performed while a member of the program shall not be counted—

(1) in determining eligibility for retirement other than by reason of a physical disability incurred while on active duty as a member of the program; or

(2) in computing years of service creditable under section 205, other than subsection (a)(7) and (8), of Title 37.

(Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 718.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2114 of this title.

§ 2127. Contracts for scholarships: payments.

(a) The Secretary of Defense may provide for the payment of all educational expenses incurred by a member of the program, including tuition, fees, books, and laboratory expenses. Such payments, however, shall be limited to those educational expenses normally incurred by students at the institution and in the health profession concerned who are not members of the program.

(b) The Secretary of Defense may contract with an accredited civilian educational institution for the

payment of tuition and other educational expenses of members of the program authorized by this chapter. Payment to such institutions may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

(c) Payments made under subsection (b) shall not cover any expenses other than those covered by subsection (a).

(d) When the Secretary of Defense determines, under regulations prescribed by the Secretary of Health, Education, and Welfare, that an accredited civilian educational institution has increased its total enrollment for the sole purpose of accepting members of the program covered by this chapter, he may provide under a contract with such an institution for additional payments to cover the portion of the increased costs of the additional enrollment which are not covered by the institution's normal tuition and fees. (Added Pub. L. 92–426, § 2(a), Sept. 21, 1972, 86 Stat. 718.)

PART IV.—SERVICE, SUPPLY, AND PROCUREMENT

Chapter 131.—PLANNING AND COORDINATION

§ 2210. Proceeds of sales of supplies: credit to appropriations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

Chapter 133.—FACILITIES FOR RESERVE COMPONENTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 138 of this title.

§ 2233a. Limitation.

(1) No expenditure or contribution that is more than $100,000 may be made under section 2233 of this title for any facility until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notifies the Senate and the House of Representatives of the location, nature, and estimated cost of such facility. This requirement does not apply to the following:

(a) Facilities acquired by lease.

(b) Facilities acquired, constructed, expanded, rehabilitated, converted, or equipped to restore or replace facilities damaged or destroyed, where the Senate and the House of Representatives have been notified of that action.

(2) Under such regulations as the Secretary of Defense may prescribe, any project authorized pursuant to section 2233(a) which does not cost more than $50,000 may be accomplished from appropriations available for maintenance and operations. (As amended Pub. L. 93–552, title VII, § 703, Dec. 27, 1974, 88 Stat. 1770; Pub. L. 94–107, title VII, § 703, Oct. 7, 1975, 89 Stat. 569.)

AMENDMENTS

1975—Par. (2). Pub. L. 94–107 substituted "$50,000" for "$25,000".

1974—Par. (1). Pub. L. 93–552 substituted "$100,000" for "$850,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2233 of this title.

Chapter 137.—PROCUREMENT GENERALLY

§ 2304. Purchases and contracts: formal advertising; exceptions.[1]

(a) Purchases of and contracts for property or services covered by this chapter shall be made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. If use of such method is not feasible and practicable, the head of an agency, subject to the requirements for determinations and findings in section 2310, may negotiate such a purchase or contract, if—

* * * * *

(3) the aggregate amount involved is not more than $10,000;

* * * * *

(g) In all negotiated procurements in excess of $10,000 in which rates or prices are not fixed by law or regulation and in which time of delivery will permit, proposals, including price, shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured, and written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price, and other factors considered: *Provided, however,* That the requirements of the subsection with respect to written or oral discussions need not be applied to procurements in implementation of authorized set-aside programs or to procurements where it can be clearly demonstrated from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices and where the request for proposals notifies all offerors of the possibility that award may be made without discussion.

* * * * *

(As amended July 25, 1974, Pub. L. 93–356, § 4, 88 Stat. 390.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–356, § 4(a), substituted "$10,000" for "$2,500".

Subsec. (g). Pub. L. 93–356, § 4(b), substituted "$10,000" for "$2,500".

DISCRIMINATION IN PETROLEUM SUPPLIES TO ARMED FORCES PROHIBITED; ENFORCEMENT PROCEDURE; PENALTIES; EXPIRATION

Section 816 of Pub. L. 94–106, title VIII, Oct. 7, 1975, 89 Stat. 540, provided that:

"(a) The Armed Forces of the United States operate worldwide in maintaining international peace and in protecting the interests of the United States. It is essential to the effective operation of the Armed Forces that they re-

[1] Section catchline does not conform to catchline in scheme.

ceive adequate supplies of petroleum products. Citizens and nationals of the United States and corporations organized or operating within the United States enjoy the benefits of the United States flag and the protection of the Armed Forces and owe allegiance to the United States. It is the purpose of this section to provide a remedy for discrimination by citizens of nationals of the United States or corporations organized or operating within the United States, and by organizations controlled by them, against the Department of Defense in the supply of petroleum products.

"(b)(1) No supplier shall engage in discrimination (as defined in subsection (e)(2) of this section) in the supply, either within or outside the United States, of petroleum products for the Armed Forces of the United States.

"(2) The Secretary of Defense, whenever he has reason to believe that there has been discrimination, shall immediately refer the matter to the Attorney General of the United States who shall immediately institute an investigation.

"(c)(1) The several district courts of the United States are invested with jurisdiction to prevent and restrain discrimination prohibited by subsection (b)(1) of this section; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings to prevent and restrain such discrimination. Such proceedings may be by way of petitions setting forth the case and requesting that the discrimination be enjoined or otherwise prohibited. Pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as it determines appropriate under the circumstances of the case.

"(2) Whenever it shall appear to the court before which any proceeding under paragraph (1) of this subsection may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpenas to that end may be served in any district by the marshal thereof.

"(3) Any proceeding under paragraph (1) of this subsection against any corporation may be brought not only in the judicial district in which it is incorporated, but also in any district in which it may be found or transacts business; and all process in such cases may be served in the district in which it is incorporated, or wherever it may be found.

"(4) In any proceeding brought in any district court of the United States pursuant to this section, the Attorney General may file with the clerk of such court a certificate of the Secretary of Defense that, in his opinion, the proceeding is of critical importance to the effective operation of the Armed Forces of the United States and that immediate relief from the discrimination is necessary, a copy of which shall be immediately furnished by such clerk to the chief judge of the circuit (or, in his absence, the presiding circuit judge) in which the proceeding is pending. Upon receipt of the copy of such certificate, it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine such proceeding. Except as to causes which the court considers to be of greater urgency, proceedings before any district court under this section shall take precedence over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(5) In every proceeding brought in any district court of the United States under this section, an appeal from the final order of the district court will be only to the Supreme Court.

"(d)(1) For the purpose of any investigation instituted by the Attorney General pursuant to subsection (b) of this section, he, or his designee, shall at all reasonable times (A) have access to the premises or property of, (B) have access to and the right to copy the books, records, and other writings of, (C) have the right to take the sworn testimony of, and (D) have the right to administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement of this section and the regulations or orders issued thereunder.

"(2) The Attorney General shall issue rules and regulations insuring that the authority of paragraph (1) of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpena served upon, any person with respect to any action taken by the Attorney General under paragraph (1) of this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the Attorney General, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(3) The production of any person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpena, or other document issued with respect thereto, such person furnishes the Attorney General with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the Attorney General as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(4) Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by paragraph (1) of this subsection, or any rule, regulation, or order issued under paragraph (2) of this subsection, shall upon conviction be fined not more than $1,000 or imprisoned for not more than one year or both.

"(5) Information obtained under this section which the Attorney General deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the Attorney General determines that the withholding thereof is contrary to the interest of the national defense. Any person who willfully violates this subsection shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. All information obtained by the Attorney General under this section and which he deems confidential shall not be published or disclosed, either to the public or to another Federal agency, not including the Congress or any duly authorized committee thereof in the performance of its functions, unless the Attorney General determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(6) Any person subpenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

"(7) No individual who, having claimed his privilege against self-incrimination, is compelled to testify or produce evidence, documentary or otherwise, under the provision of this section, may be prosecuted in any criminal proceeding of the offense of discrimination established by this section.

"(e) As used in this section—

"(1) The term 'United States' when used in a geographical sense includes the several States, the possessions of the United States, the Canal Zone, and the District of Columbia.

"(2) The term 'discrimination' means the willful refusal or failure of a supplier, when requested by the Secretary of Defense or his designee, to supply petroleum products for the use of the Armed Forces of the United States under the terms of any contract or under the authority of the Defense Production Act, as amended (64 Stat. 798, 50 U.S.C. App. 2061–2166), the Emergency Petroleum Allocation Act, as amended (Pub-

lic Law 93–159) [section 751 et seq. of title 15]; or under the provisions of any other authority, on terms not inconsistent with the applicable Armed Services Procurement Regulations, as amended from time to time, and at prices which are fair and reasonable and do not exceed prices received for similar products and quantities from other domestic or foreign customers. Disagreements as to price or other terms or conditions shall be disputes as to questions of fact to be resolved in the manner prescribed by the applicable Armed Services Procurement Regulations, as amended from time to time, for the settlement of disputes arising out of contracts and shall not be a basis for delay or refusal to supply petroleum products.

"(3) The term 'supplier' means any citizen or national of the United States, any corporation organized or operating within the United States, or any organization controlled by any United States citizen, national, or corporation organized or operating within the United States, engaged in producing, refining or marketing of petroleum or petroleum products.

"(f) Any supplier who willfully discriminates as prohibited by subsection (b)(1) of this section shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than two years, or both.

"(g) If any provision of this section or the application thereof to any person or circumstances is held invalid, the validity of the remaining provisions of this section and the application of such provision to other persons and circumstances shall not be affected thereby.

"(h) The provisions of this section shall expire two years after the date of enactment of this Act [Oct. 7, 1975], except that—

"(1) any supplier who, before the date of the expiration of this section, willfully violated any provision of this section shall be punished in accordance with the provisions of such section as in effect on the date the violation occurred;

"(2) any proceeding relating to any provision of this section which is pending at the time this section expires shall be continued by the Attorney General as if this subsection had not been enacted, and orders issued in any such proceeding shall continue in effect as if they had been effectively issued under this section before the expiration thereof or until otherwise terminated by appropriate action;

"(3) the expiration of this section shall not affect any suit, action, or other proceeding lawfully commenced before the expiration of this section, and all such suits, actions, and proceedings shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this section had not expired; and

"(4) the provisions of this section relating to the improper publication or disclosure of information shall continue in effect, in the same manner and with the same effect as if this section had not expired, with respect to any publication or disclosure (prohibited by such section before the expiration thereof) made after the expiration of such section if the information published or disclosed was obtained under authority of this section before the expiration of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2305, 2306, 2310, 2311 of this title.

§ 2307. Advance payments.

* * * * *

(d) Payments under subsection (a) in the case of any contract, other than partial, progress, or other payments specifically provided for in such contract at the time such contract was initially entered into, may not exceed $25,000,000 unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed payments and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such payments. For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period. (As amended Nov. 16, 1973, Pub. L. 93–155, title VIII, § 807(c), 87 Stat. 616.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93–155 added subsec. (d).

OBLIGATIONS ENTERED INTO BEFORE NOVEMBER 16, 1973

Section 807(e) of Pub. L. 93–155 provided that: "The amendments made by this section [to this section, section 1431 of Title 50, and sections 468(a) and 2092 of Appendix to Title 50] shall not affect the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to the date of enactment of this section [Nov. 16, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2310, 2311 of this title.

§ 2313. Examination of books and records of contractor.

FOREIGN CONTRACTORS

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising the authority provided in the amendment of this section by Pub. L. 89–607 to exempt certain contracts with foreign contractors from the requirement of an examination-of-records clause, that all reasonable efforts have been made to include such examination-of-records clause, as required by par. (11) of Part I of Ex. Ord. No. 10789 and that alternate sources of supply are not reasonably available, see par. (11) of Part I of Ex. Ord. No. 10789, Nov. 14, 1958, 23 F.R. 8897, as amended, set out as a note under section 1431 of Title 50, War and National Defense.

Chapter 139.—RESEARCH AND DEVELOPMENT

§ 2353. Contracts: acquisition, construction, or furnishing of test facilities and equipment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 138 of this title.

§ 2358. Research projects.

CAMPUSES BARRING MILITARY RECRUITERS; CESSATION OF PAYMENTS; NOTIFICATION OF SECRETARY OF DEFENSE

Pub. L. 92–156, title V, § 502, Nov. 17, 1971, 85 Stat. 427, provided in part that: "The Secretaries of the military departments shall furnish to the Secretary of Defense or his designee within 60 days after the date of enactment of this Act [Nov. 17, 1971] and each January 31st and June 30th thereafter the names of any institutions of higher learning which the Secretaries determine on such dates are barring such recruiting personnel from the campus of the institution."

Chapter 145.—CATALOGING AND STANDARDIZATION

§ 2455. Reports to Congress.

(a) The Secretary of Defense shall send to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 of each year, a progress report on cataloging under this chapter from each military department. Each report shall cover the yearly period ending with the preceding December 31. The report shall contain—

(1) the number of sections or parts of the supply catalog that have been published, and their titles;

(2) the number of item identification numbers in the catalog that have replaced, for all supply purposes, former item identifications or stock or catalog numbers;

(3) the reduction in the number of separate item identifications; and

(4) any other information that the Secretary considers will best inform Congress of the status of the cataloging program.

(b) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 of each year, on the progress of the standardization program within the military departments. Each report shall cover the yearly period ending with the preceding December 31. The report shall contain—

(1) the number of separate specifications that have been consolidated into single specifications for use throughout the Department of Defense;

(2) the reduction in the number of sizes or kinds of items that are generally similar;

(3) the duplications eliminated in services, space, and facilities; and

(4) any other information that the Secretary considers will best inform Congress of the progress of the standardization program.

(c) The Secretary may combine the report required by subsections (a) and (b). (As amended Jan. 2, 1975, Pub. L. 93–608, § 2(2), 88 Stat. 1971.)

AMENDMENTS

1975—Subsecs. (a), (b). Pub. L. 93–608 substituted provisions relating to yearly reports for provisions relating to semiannual reports, wherever appearing therein.

Chapter 151.—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.
2544. Equipment and other services: Boy Scout Jamborees.

AMENDMENTS

1972—Pub. L. 92–249, Mar. 10, 1972, 86 Stat. 62, added item 2544.

§ 2544. Equipment and other services: Boy Scout Jamborees.

(a) The Secretary of Defense is hereby authorized, under such regulations as he may prescribe, to lend to the Boy Scouts of America, for the use and accommodation of Scouts, Scouters, and officials who attend any national or world Boy Scout Jamboree, such cots, blankets, commissary equipment, flags, refrigerators, and other equipment and without reimbursement, furnish services and expendable medical supplies, as may be necessary or useful to the extent that items are in stock and items or services are available.

(b) Such equipment is authorized to be delivered at such time prior to the holding of any national or world Boy Scout Jamboree, and to be returned at such time after the close of any such jamboree, as may be agreed upon by the Secretary of Defense and the Boy Scouts of America. No expense shall be incurred by the United States Government for the delivery, return, rehabilitation, or replacement of such equipment.

(c) The Secretary of Defense, before delivering such property, shall take from the Boy Scouts of America, good and sufficient bond for the safe return of such porperty in good order and condition, and the whole without expense to the United States.

(d) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Military Airlift Command for (1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree, and (2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this section to the extent that such transportation will not interfere with the requirements of military operations.

(e) Before furnishing any transportation under subsection (d), the Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States by the Boy Scouts of America, of the actual costs of transportation furnished under this section.

(f) Amounts paid to the United States to reimburse it for expenses incurred under subsection (b) and for the actual costs of transportation furnished under subsection (d) shall be credited to the current applicable appropriations or funds to which such expenses and costs were charged and shall be available for the same purposes as such appropriations or funds.

(g) Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America, equipment and other services, under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense. (Added Pub. L. 92–249, Mar. 10, 1972, 86 Stat. 62.)

Chapter 157.—TRANSPORTATION

Sec.
2635. Medical emergency helicopter transportation assistance and limitation of individual liability.

AMENDMENTS

1973—Pub. L. 93–155, title VIII, § 814(b), Nov. 16, 1973, 87 Stat. 621, added item 2635.

§ 2634. Motor vehicles: for members on change of permanent station.

(a) When a member of an armed force is ordered to make a change of permanent station, one motor vehicle owned by him and for his personal use or the use of his dependents may, unless a motor vehicle owned by him was transported in advance of that change of permanent station under section 406(h) of title 37, be transported, at the expense of the United States, to his new station or such other place as the Secretary concerned may authorize—

(1) on a vessel owned, leased, or chartered by the United States;

(2) by privately owned American shipping services;

(3) by foreign-flag shipping services if shipping services described in clauses (1) and (2) are not reasonably available; or

(4) in the case of movement, the major portion of which is by shipping services described in clause (1) or (2), by other surface transportation between customary ports of embarkation and debarkation if such means of transport does not exceed the cost to the United States of other authorized means.

When the Secretary concerned, or his designee, determines that a replacement for that motor vehicle is necessary for reasons beyond the control of the member and is in the interest of the United States, and he approves the transportation in advance, one additional motor vehicle of the member may be so transported.

* * * * *

(c) When there has been a shipping error, or when orders directing a change of permanent station have been canceled, revoked, or modified after receipt by the member, a motor vehicle transported pursuant to this section may also be reshipped or transshipped in accordance with this section. (As amended Pub. L. 93–548, §§ 1, 2, Dec. 26, 1974, 88 Stat. 1743.)

AMENDMENTS

1974—Subsec. (a)(4). Pub. L. 93–548, § 1, added par. (4).

Subsec. (c). Pub. L. 93–548, § 2, added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 857a; title 37 section 406; title 42 section 213a.

§ 2635. Medical emergency helicopter transportation assistance and limitation of individual liability.

(a) The Secretary of Defense is authorized to assist the Department of Health, Education, and Welfare and the Department of Transportation in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Secretary of Defense deems appropriate and shall be subject to the following specific limitations:

(1) Assistance may be provided only in areas where military units able to provide such assistance are regularly assigned, and military units shall not be transferred from one area to another for the purpose of providing such assistance.

(2) Assistance may be provided only to the extent that it does not interfere with the performance of the military mission.

(3) The provision of assistance shall not cause any increase in funds required for the operation of the Department of Defense.

(b) No individual (or his estate) who is authorized by the Department of Defense to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services. (Added Pub. L. 93–155, title VIII, § 814(a), Nov. 16, 1973, 87 Stat. 620.)

Chapter 159.—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

Sec.
2672. Acquisition: interests in land when cost is not more than $50,000.
2672a. Acquisition: interests in land when need is urgent.
2674. Establishment and development of military facilities and installations costing less than $400,000.
2675. Leases: foreign countries.
2684. Construction of family quarters; limitations on space.
2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities.

AMENDMENTS

1975—Pub. L. 94–107, title VI, § 607(1), (9), (10), Oct. 7, 1975, 89 Stat. 566, 567, substituted "$400,000" for "$300,000" in item 2674, struck out "; structures not on a military base" in item 2675, and added item 2672a.

1974—Pub. L. 93–552, title VI, § 611, Dec. 27, 1974, 88 Stat. 1765, added item 2685.

1973—Pub. L. 93–166, title V, § 509(b), Nov. 29, 1973, 87 Stat. 677, added item 2684.

1971—Pub. L. 92–145, title VII, § 707(2), Oct. 27, 1971, 85 Stat. 411, substituted "$50,000" for "$25,000" in item 2672.

§ 2662. Real property transactions: Reports to the Armed Services Committees.

(a) The Secretary of a military department, or his designee, may not enter into any of the following listed transactions by or for the use of that department until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives:

* * * * *

(3) A lease or license of real property owned by the United States, if the estimated annual fair market rental value of the property is more than $50,000.

* * * * *

(6) Any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

If a transaction covered by clause (1) or (2) is part of a project, the report must include a summarization of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made.

(b) The Secretary of each military department shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than $5,000 but not more than $50,000.

(c) This section applies only to real property in the United States, Puerto Rico, Guam, the American Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. It does not apply to real property for river and harbor projects or flood control projects, or to leases of Government-owned real property for agricultural or grazing purposes or

to any real property acquisition specifically authorized in a Military Construction Authorization Act.

* * * * *

(e) No element of the Department of Defense shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $50,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of the Department of Defense, until the expiration of thirty days from the date upon which a report of the facts concerning the proposed occupancy is submitted to the Comittees on Armed Services of the Senate and the House of Representatives. (As amended Oct. 27, 1971, Pub. L. 92–145, title VII, § 707(5), 85 Stat. 412; Oct. 25, 1972, Pub. L. 92–545, title VII, § 709, 86 Stat. 1154; Dec. 27, 1974, Pub. L. 93–552, title VI, § 610, 88 Stat. 1765; Oct. 7, 1975, Pub. L. 94–107, title VI, § 607(5), (6), 89 Stat. 566.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–107, § 607(5), substituted requirement of annual reports for requirement of quarterly reports.

Subsec. (c). Pub. L. 94–107, § 607(6), added provisions extending the applicability of the section to Guam, the American Samoa, and the Trust Territory of the Pacific Islands, and, in provisions relating to the inapplicability of the section, added reference to any real property acquisition specifically authorized in a Military Construction Authorization Act.

1974—Subsec. (a) (6). Pub. L. 93–552 added par. (6).

1972—Subsec. (e). Pub. L. 92–545 added subsec. (e).

1971—Subsec. (a) (3). Pub. L. 92–145 made the restriction applicable to a license of real property and substituted "estimated annual fair market rental value" for "estimated annual rental".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 3374.

§ 2667. Leases: non-excess property.

* * * * *

(f) Notwithstanding clause (3) of subsection (a), real property and associated personal property, which have been determined excess as the result of a defense installation realignment or closure, may be leased to State or local governments pending final disposition of such property if—

(1) The Secretary concerned determines that such action would facilitate State or local economic adjustment efforts, and

(2) The Administrator of the General Services Administration concurs in the action.

(As amended Oct. 7, 1975, Pub. L. 94–107, title VI, §607(7), 89 Stat. 566.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–107 added subsec. (f).

§ 2672. Acquisition: interests in land when cost is not more than $50,000.

The Secretary of a military department may acquire any interest in land that—

(1) he or his designee determines is needed in the interest of national defense; and

(2) does not cost more than $50,000, exclusive of administrative costs and the amounts of any deficiency judgments.

This section does not apply to the acquisition, as a part of the same project, of more than one parcel of land unless the parcels are noncontiguous, or, if contiguous, unless the total cost is not more than $50,000. The authority to acquire an interest in land under this section includes authority to make surveys and acquire interests in land (including temporary use), by gift, purchase, exchange of land owned by the United States, or otherwise. (As amended Pub. L. 98–145, title VII, § 707 (2), (3), Oct. 27, 1971, 85 Stat. 412.)

AMENDMENTS

1971—Pub. L. 92–145 substituted "$50,000" for "$25,000" in the section catchline and in two instances in the text, and included in the acquisition authority, the authority to make surveys and acquire interests in land (including temporary use) by gift, purchase, exchange of land owned by the United States, or otherwise, respectively.

§ 2672a. Acquisition: interests in land when need is urgent.

The Secretary of a military department may acquire any interest in land that—

(1) he or his designee determines is needed in the interest of national defense;

(2) is required to maintain the operation integrity of a military installation; and

(3) considerations of urgency do not permit the delay necessary to include the required acquisition in an annual Military Construction Authorization Act.

Appropriations available for military construction may be used for the purposes of this section. The authority to acquire an interest in land under this section includes authority to make surveys and acquire interests in land (including temporary use), by gift, purchase, exchange of land owned by the United States, or otherwise. The Secretary of a military department contemplating action under this provision will provide notice, in writing, to the Armed Services Commitees of the Senate and House of Representatives at least 30 days in advance of any action being taken. (Added Pub. L. 94–107, title VI, § 607(8), Oct. 7, 1975, 89 Stat. 566.)

§ 2673. Restoration or replacement of facilities damaged or destroyed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 138 of this title.

§ 2674. Establishment and development of military facilities and installations costing less than $400,000.

(a) Under such regulations as the Secretary of Defense may prescribe, the Secretary of a military department may acquire, construct, convert, extend, and install, at military installations and facilities, urgently needed permanent or temporary public works not otherwise authorized by law, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters. However, a determination that a project is urgently needed is not required for a project costing not more than $75,000 or for a project which the Secretary of a military department determines will, within three years following completion of the project, result in savings in maintenance and operation costs in excess of the cost of the project.

(b) This section does not authorize a project costing more than $400,000. A project costing more than

$200,000 must be approved in advance by the Secretary of Defense, and a project costing more than $75,000 must be approved in advance by the Secretary concerned.

* * * * *

(e) Appropriations available for military construction may be used for the purposes of this section. In addition, the Secretary concerned may spend, from appropriations available for maintenance and operations, amounts necessary for any project costing not more than $75,000 that is authorized under this section.

(f) The Secretary of each military department shall report in detail annually to the Committees on Armed Services of the Senate and House of Representatives on the administration of this section. (As amended Pub. L. 92–145, title VII, § 707(1), Oct. 27, 1971, 85 Stat. 411; Pub. L. 93–166, title VI, § 608(1), Nov. 29, 1973, 87 Stat. 682; Pub. L. 94–107, title VI, § 607(2)–(4), Oct. 7, 1975, 89 Stat. 566.)

AMENDMENTS

1975—Pub. L. 94–107 substituted "$400,000" for "$300,000" in the section catchline, "$75,000" for "$50,000" in subsecs. (a) and (e), and "$400,000", "$200,000", and "$75,000" for "$300,000", "$100,000, and "$50,000", respectively, in subsec. (b).

1973—Subsec. (f). Pub. L. 93–166 substituted requirement of an annual report for a semiannual report.

1971—Subsec. (a). Pub. L. 92–145 added provision dispensing with an urgently needed determination for a project which the Secretary of a military department determines will, within three years following completion, result in savings in maintenance and operation costs in excess of the project's cost.

LEASING OF HOUSING FACILITIES

Section 515 of act July 15, 1955, ch. 363, 69 Stat. 352, as amended Aug. 3, 1956, ch. 939, title IV, § 412, 70 Stat. 1017; Aug. 30, 1957, Pub. L. 85–241, title IV, § 402, 71 Stat. 555; Aug. 20, 1958, Pub. L. 85–685, title V, § 509, 72 Stat. 662; Aug. 10, 1959, Pub. L. 86–149, title IV, § 407, 73 Stat. 321; June 27, 1961, Pub. L. 87–57, title VI, § 608, 75 Stat. 111; July 27, 1962, Pub. L. 87–554, title V, § 505, 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, § 505, 77 Stat. 325; Aug. 1, 1964, Pub. L. 88–390, title V, § 504, 78 Stat. 361; Sept. 16, 1965, Pub. L. 89–188, title V, § 504, 79 Stat. 913; Sept. 12, 1966, Pub. L. 89–568, title V, § 501, 80 Stat. 753; Oct. 21, 1967, Pub. L. 90–110, title VI, § 607, 81 Stat. 305; July 21, 1968, Pub. L. 90–408, title VI, § 606, 82 Stat. 388; Dec. 5, 1969, Pub. L. 91–142, title V, § 507, 83 Stat. 312; Oct. 26, 1970, Pub. L. 91–511, title V, § 506, 84 Stat. 1220; Oct. 27, 1971, Pub. L. 92–145, title V, § 508, 85 Stat. 407; Oct. 25, 1972, Pub. L. 92–545, title V, § 506, 86 Stat. 1149; Nov. 29, 1973, Pub. L. 93–166, title V, § 507(a), 87 Stat. 676; Dec. 27, 1974, Pub. L. 93–552, title V, § 507(a), 88 Stat. 1759; Oct. 7, 1975, Pub. L. 94–107, title V, § 506(a), 89 Stat. 561, provided that: "The Secretaries of the Army, Navy, and Air Force, respectively, are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, without rental charge, at or near any military installation in the United States, Puerto Rico, or Guam, if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that (1) there has been a recent substantial increase in military strength and such increase is temporary, or (2) the permanent military strength is to be substantially reduced in the near future, or (3) the number of military presonnel assigned is so small as to make the construction of family housing uneconomical, or (4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or (5) family housing has been authorized but is not yet completed or a family housing authorization request is a pending military construction authorization bill. Such housing facilities may be leased on an individual unit basis and not more than ten thousand such units may be so leased at any one time. Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, an average of $245 per month for each military department, or the amount of $325 per month for any one unit; and for Alaska, Hawaii, and Guam, an average of $310 per month for each military department, or the amount of $385 per month for any one unit."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 138 of this title.

§ 2675. Leases: foreign countries.

(a) Notwithstanding any other provision of law, the Secretary of a military department may acquire by lease, in any foreign country, structures and real property relating thereto that are needed for military purposes. A lease under this section may not be for a period of more than five years.

* * * * *

(As amended Pub. L. 94–107, title VI, § 607(10),(11), Oct. 7, 1975, 89 Stat. 567.)

AMENDMENTS

1975—Pub. L. 94–107 struck out reference to structures not on a military base in the section catchline, and in subsec. (a), struck out "that are not located on a military base and" following "structures and real property relating thereto".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 15941.

§ 2676. Acquisition: limitation.

No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law. The foregoing limitation shall not apply to the acceptance by a military department of real property acquired under the authority of the Administrator of General Services to acquire property by the exchange of Government property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.). (As amended Pub. L. 93–166, title VI, § 608(2), Nov. 29, 1973, 87 Stat. 682.)

AMENDMENTS

1973—Pub. L. 93–166 made limitation inapplicable to property acquired under authority of Administrator of General Services to acquire property by exchange of Government property.

§ 2677. Options: property required for public works projects of military departments.

* * * * *

(b) As consideration for an option acquired under subsection (a), the Secretary may pay, from funds available to his department for real property activities, an amount that is not more than 5 per centum of the appraised fair market value of the property.

* * * * *

(As amended Pub. L. 92–145, title VII, § 707(4), Oct. 27, 1971, 85 Stat. 412.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–145 deleted requirement that amount paid for option be credited to the purchase price if acquisition of real property is completed.

§ 2683. Relinquishment of legislative jurisdiction.

(a) Notwithstanding any other provision of law, the Secretary concerned may, whenever he considers

it desirable, relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State, Commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

* * * * *

(As amended Pub. L. 92–545, title VII, § 707, Oct. 25, 1972, 86 Stat. 1154; Pub. L. 93–283, § 3, May 14, 1974, 88 Stat. 141.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–283 substituted "Secretary concerned" for "Secretary of a military department".

1972—Subsec. (a). Pub. L. 92–545 provided for the relinquishment of all or part of the legislative jurisdiction of the United States over lands or interests to Commonwealths, territories, or possessions of the United States.

§ 2684. Construction of family quarters; limitations on space.

(a) In the construction of family quarters for members of the Armed Forces, the following are the maximum space limitations:

Pay grade	Number of bedrooms	Net floor area (square feet)
O–7 and above	4	2,100
O–6	4	1,700
O–4 and O–5	4	1,550
	3	1,400
O–1 through O–3; W–1 through W–4; and E–7 through E–9	5	1,550
	4	1,450
	3	1,350
	2	950
E–1 through E–6	5	1,550
	4	1,350
	3	1,200
	2	950

As used in this section "net floor area" means the space inside the exterior walls, excluding: basement; service space instead of basement; attic; garage; carport; porches; and stairwells.

(b) The maximum limitations prescribed by subsection (a) are increased by 10 per centum for quarters of the commanding officer of any station, air base, or other installation, based on the grade authorized for that position.

(c) The maximum limitations for family quarters constructed for key and essential civilian personnel are the same as those for military personnel of comparable grade, as determined by the Secretary of Defense.

(d) The maximum net floor area prescribed by subsection (a) may be increased up to 5 per centum if the Secretary of Defense, or his designee, determines that such increase is in the best interest of the Government to permit award of a turnkey construction project to the contractor offering the most satisfactory proposal. Any increase made under subsection (b) when combined with an increase under this subsection may not exceed an aggregate of 10 per centum. (Added Pub. L. 93–166, title V, § 509(a), Nov. 29, 1973, 87 Stat. 677.)

§ 2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities.

(a) Notwithstanding any other provision of law, the Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may, for the purposes of this section, provide for an adjustment of, or surcharge on, sales prices of goods and services sold in commissary store facilities.

(b) The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations within the United States and for related environmental evaluation and construction costs, including surveys, administration, overhead, planning, and design. (Added Pub. L. 93–552, title VI, § 611, Dec. 27, 1974, 88 Stat. 1765.)

Chapter 163.—MILITARY CLAIMS

§ 2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force.

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief legal officer of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than $25,000, a claim against the United States for—

* * * * *

(d) If the Secretary concerned considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant $25,000 and report the excess to Congress for its consideration.

* * * * *

(g) In any case where the amount to be paid is not more than $5,000, the authority contained in subsection (a) may be delegated to any officer of an armed force under the jurisdiction of the department concerned, subject to appeal to the Secretary concerned, or his designee for that purpose.

* * * * *

(As amended July 8, 1974, Pub. L. 93–336, § 1, 88 Stat. 291.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–336, § 1(1), substituted "$25,000" for "$15,000".

Subsec. (d). Pub. L. 93–336, § 1(2), substituted "$25,000" for "$15,000" wherever appearing.

Subsec. (g). Pub. L. 93–336, § 1(3), substituted "$5,000" for "$2,500".

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2735, 2736 of this title; title 5 section 5564; title 32 section 715; title 37 section 554.

§ 2734. Property loss; personal injury or death: incident to noncombat activities of the armed forces; foreign countries.

(a) To promote and maintain friendly relations through the prompt settlement of meritorious claims the Secretary concerned or any officer designated by him may, under such regulations as the Secretary may prescribe, appoint one or more claims commissions, each composed of one or more commissioned officers of the armed forces, to settle and pay any claim for not more than $25,000, for—

* * * * *

(d) If the Secretary concerned considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant $25,000 and certify the excess to Congress as a legal claim for payment from appropriations made by Congress therefor, together with a brief statement of the claim, the amount claimed, the amounts allowed, and the amount paid.

* * * * *

(As amended July 8, 1974, Pub. L. 93–336, § 2, 88 Stat. 292.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–336 substituted "$25,000" for "$15,000".

Subsec. (d). Pub. L. 93–336 substituted "$25,000" for "$15,000" in two instances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2733, 2735, 2736 of this title; title 32 section 715.

§§ 2734a, 2734b.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 2735 of this title.

§ 2735. Settlement: final and conclusive.

Notwithstanding any other provision of law, the settlement of a claim under section 2733, 2734, 2734a, 2734b, or 2737 of this title is final and conclusive. (As amended Aug. 29, 1972, Pub. L. 92–413, 86 Stat. 649.)

AMENDMENTS

1972—Pub. L. 92–413 added reference to sections 2734a, 2734b, and 2737 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 857a.

§ 2737. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2735 of this title.

Chapter 165.—ACCOUNTABILITY AND RESPONSIBILITY

Sec.

2774. Claims for overpayment of pay and allowances, other than travel and transportation allowances.

AMENDMENTS

1972—Pub. L. 92–453, § 1(2), Oct. 2, 1972, 86 Stat. 759, added item 2774.

§ 2771. Final settlement of accounts: decreased members.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 2774. Claims for overpayment of pay and allowances, other than travel and transportation allowances.

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after the effective date of this section, to or on behalf of a member or former member of the uniformed services, as defined in section 101(3) of title 37, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Comptroller General; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than $500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of pay or allowances, other than travel and transportation allowances, was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States. (Added Pub. L. 92–453, § 1(1), Oct. 2, 1972, 86 Stat. 758.)

REFERENCES IN TEXT

Effective date of this section, referred to in subsec. (a), means the effective date of Pub. L. 92–453, which was approved Oct. 2, 1972.

Subtitle B.—Army

PART I.—ORGANIZATION

Chapter 305.—THE ARMY STAFF

§ 3031. Composition: assignment and detail of members of Army and civilians.

(a) There is in the executive part of the Department of the Army an Army Staff consisting of—

(1) the Chief of Staff;

(2) the Vice Chief of Staff;

(3) not more than four Deputy Chiefs of Staff, as prescribed by the Secretary of the Army;

(4) not more than five Assistant Chiefs of Staff, as prescribed by the Secretary;

(5) the officers named in sections 3036, 3039, and 3040 of this title;

(6) other members of the Army assigned or detailed to the Army Staff; and

(7) civilians in the Department of the Army assigned or detailed to the Army Staff.

* * * * *

(c) Not more than 3,000 officers of the Army may be assigned or detailed to permanent duty in the executive part of the Department of the Army. Of this number not more than 1,000 may be detailed or assigned to duty on or with the Army General Staff. However, these limitations do not apply in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Department or on or with the Army General Staff.

* * * * *

(As amended Dec. 26, 1974, Pub. L. 93–547, 88 Stat. 1742; Jan. 2, 1975, Pub. L. 93–608, § 1(6), 88 Stat. 1968.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–608 struck out requirement of quarterly report to Congress on the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff and the justification therefor.

1974—Subsec. (a)(3). Pub. L. 93–547 increased the number of Deputy Chiefs of Staff from three to four.

PART II.—PERSONNEL

Chapter 331.—STRENGTH

§ 3201. Army: members on active duty.

SUSPENSION OF RESTRICTIONS ON PERSONNEL STRENGTH UNTIL JULY 1, 1973

Act Aug. 3, 1950, ch. 537, 64 Stat. 408, as amended June 19, 1951, ch. 144, title I, § 3, 65 Stat. 88; Mar. 15, 1954, ch. 79, 68 Stat. 27; Pub. L. 85–63, June 27, 1957, 71 Stat. 208; Pub. L. 86–4, § 2, Mar. 23, 1959, 73 Stat. 13; Pub. L. 88–2, § 2, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90–40, § 2, June 30, 1967, 81 Stat. 105; Pub. L. 91–121, title IV, § 406, Nov. 19, 1969, 83 Stat. 207; Pub. L. 92–129, title I, § 102, Sept. 28, 1971, 85 Stat. 355, provided:

"That provisions of law imposing restriction on the authorized personnel strength of any component of the Armed Forces, including sections 102, 202, 213, and 302 of the Women's Armed Services Integration Act of 1948 (62 Stat. 357, 363, 369, and 371), section 2, title I of the Selective Service Act of 1948 (62 Stat. 605), as amended section 2 of the Act of April 18, 1946 (60 Stat. 92), and sections 102 and 202 of the Act of July 10, 1950 (64 Stat. 322 and 323), are hereby suspended until July 1, 1973."

* * * * *

ACTIVE DUTY STRENGTH LEVELS FOR FISCAL YEAR 1972

Pub. L. 92–129, title III, § 301, Sept. 28, 1971, 85 Stat. 360, provided that:

"For the fiscal year beginning July 1, 1971, and ending June 30, 1972, each of the following armed forces is authorized an average active duty personnel strength as follows:

"(1) the Army, 974,309;

"(2) the Navy, 613,619;

"(3) the Marine Corps, 209,846; and

"(4) the Air Force, 755,635;

except that such ceilings shall not include members of the Ready Reserve of any armed force ordered to active duty under the provisions of sections 673 of title 10, United States Code, members of the Army National Guard, or members of the Air National Guard called into Federal service under section 3500 or 8500, as the case may be, of title 10, United States Code, or members of the militia of any State called into Federal service under chapter 15 of title 10, United States Code. Whenever one or more units of the Ready Reserve are ordered to active duty after the date of enactment of this section [Sept. 28, 1971], the President shall, beginning with the second fiscal year quarter immediately following the quarter in which the first unit or units are ordered to active duty and on the first day of each succeeding six-month period thereafter, so long as any such unit is retained on active duty, submit a report to the Congress regarding the necessity for such unit or units being ordered to active duty. The President shall include in each such report a statement of the mission of each such unit ordered to active duty, an evaluation of such unit's performance of that mission, where each such unit is being deployed at the time of the report, and such other information regarding each such unit as the President deems appropriate."

§ 3202. Army: officers in certain commissioned grades.

REPORT TO CONGRESS ON THE LIMITATION ON THE NUMBER OF OFFICERS

Section 2 of Pub. L. 92–561, Oct. 25, 1972, 86 Stat. 1175 provided that: "The Secretary of Defense shall submit to the Congress not later than May 30, 1973, a comprehensive written report regarding limitations on the number of officers who may serve in various commissioned grades in the Army, Navy, Marine Corps, and Air Force. The Secretary shall include in such report such recommendations as he deems appropriate for legislation to establish new permanent limitations on the number of officers who may serve in such commissioned grades."

Chapter 335.—APPOINTMENTS IN THE REGULAR ARMY

§ 3298. Commissioned officers: promotion to first lieutenant; effect of failure of promotion.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3814a of this title.

§ 3302. Commissioned officers; Medical, Dental, and Veterinary Corps: promotion to captain, major, or lieutenant colonel; professional examination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3814a of this title.

§ 3303. Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3814a of this title.

Chapter 339.—TEMPORARY APPOINTMENTS

§ 3447. Appointments in commissioned grade: how made; how terminated.

* * * * *

(b) Temporary appointments of commissioned officers in the Regular Army shall be made by the President alone in grades below lieutenant colonel

and by the President, by and with the advice and consent of the Senate, in grades of lieutenant colonel and above. Temporary appointments of commissioned officers in the reserve components of the Army shall be made by the President alone in grades below lieutenant colonel and by the President, by and with the advice and consent of the Senate, in grades above major.

* * * * *

(As amended Sept. 28, 1971, Pub. L. 92–129, title VI, § 602, 85 Stat. 361.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–129 substituted "Regular Army" for "Army", "grades below lieutenant colonel" for "grades below brigadier general", and "grades of lieutenant colonel and above" for "general officer grades", respectively, and added sentence providing for the temporary appointment of commissioned officers in the reserve components of the Army.

Chapter 349.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

§ 3634. Army band: may not be paid for performance outside Army post.

AMERICAN REVOLUTION BICENTENNIAL; RECORDINGS FOR COMMERCIAL SALE

Pub. L. 93–571, Dec. 31, 1974, 88 Stat. 1868, provided: "That, notwithstanding any other provision of law, the United States Army Band, United States Navy Band, United States Air Force Band, and United States Marine Band are authorized to participate in the production of a collection of recordings for commercial sale, in conjunction with the American Revolution Bicentennial.

"SEC. 2. The Secretary of Defense or his designee may enter into such contract or contracts, under such terms as the Secretary or his designee may determine to be in the best interest of the Government, for the production and sale of the collection of recordings authorized by section 1 of this Act. Sale of this collection of recordings may be made (a) at such prices as the Secretary of Defense or his designee may determine, and (b) either through commercial sources or by the Government, or both through commercial sources and by the Government.

"SEC. 3. Appropriations of the Department of Defense may be reimbursed from the proceeds of sales for expenses of production and sale of the collection of recordings authorized by this Act."

Chapter 353.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.

3684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.

3686. Members of Army National Guard of United States: credit for service as members of Army National Guard.

3687. Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army.

3689. Assignments and allotments of pay.

3691. Flying officer rating: qualifications.

AMENDMENTS

1971—Pub. L. 92–168, § 1(2), Nov. 24, 1971, 85 Stat. 489, struck out item 3692 which read "Pilot rating in time of peace: qualifications.".

§ 3692. Repealed. Pub. L. 92–168, § 1(1), Nov. 24, 1971, 85 Stat. 489.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 213, provided qualifications to receive a rating as a pilot in time of peace. See section 2003 of this title.

Chapter 357.—DECORATIONS AND AWARDS

EXTENSION OF TIME FOR AWARD OF DECORATION

Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, provided: "That, notwithstanding any other provision of law, a decoration or device in lieu of decoration which, prior to the date of enactment of this Act [Oct. 24, 1974], has been authorized by Congress to be awarded to any person for an act, achievement, or service performed while on active duty in the Armed Forces of the United States, or while serving with such forces, may be awarded at any time not later than two years after the date of enactment of this Act [Oct. 24, 1974] for any such act or service performed in direct support of military operations in Southeast Asia between July 1, 1958, and March 28, 1973, inclusive, if written recommendation for the award of the decoration, or device in lieu of decoration, is made not later than one year subsequent to the date of enactment of this Act [Oct. 24, 1974]."

Chapter 359.—SEPARATION FROM REGULAR ARMY FOR SUBSTANDARD PERFORMANCE OF DUTY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3814a of this title.

Chapter 360.—SEPARATION FROM REGULAR ARMY FOR MORAL OR PROFESSIONAL DERELICTION OR IN INTERESTS OF NATIONAL SECURITY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3814a of this title.

Chapter 361.—SEPARATION FOR VARIOUS REASONS

Sec.

3814a. Regular commissioned officers; second lieutenants, first lieutenants, and captains; discharge during a reduction in force.

AMENDMENTS

1974—Pub. L. 93–558, § 1, Dec. 30, 1974, 88 Stat. 1793, added item 3814a.

§ 3814. Regular commissioned officers: discharge during three-year probationary period.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3814a of this title.

§ 3814a. Regular commissioned officers; second lieutenants, first lieutenants, and captains; discharge during a reduction in force.

(a) Under regulations prescribed by the Secretary of the Army, whenever he determines that a reduction in the active duty officer personnel strength of the Army is required, he is authorized to remove from the active list of the Regular Army any commissioned officer below the grade of major, if such officer is recommended for removal from the active list by a board of officers appointed by the Secretary of the Army, or his designee, for the purpose of recommending the removal of officers from the active list.

(b) Any officer selected for removal from the active list of the Regular Army under subsection (a) shall—

(1) if he is eligible, and so requests, be retired under section 3911 of this title on the date requested by him and approved by the Secretary, but not later than ninety days after such officer receives notification that he is to be removed from the active list of the Regular Army;

(2) if he is not eligible for retirement under section 3911 of this title, but is eligible for retirement under any other provision of law, be retired under that law on the date requested by him and approved by the Secretary, but not later than ninety days after the date such officer receives notification that he is to be removed from the active list of the Regular Army; or

(3) if he is not eligible for retirement under section 3911 of this title or any other provision of law, or does not request retirement under section 3911 of this title or under any other provision of law if he is eligible, be honorably discharged on the date requested by him and approved by the Secretary, but not later than ninety days after the date such officer receives notification that he is to be removed from the active list of the Regular Army, and be granted a readjustment payment as provided in subsection (c) of this section.

(c) (1) Any officer discharged under subsection (b) (3) and who has completed, immediately before his discharge, at least five years of continuous active duty is entitled to a readjustment payment computed by multiplying his years of active service, but not more than eighteen, by two months' basic pay of the grade in which he is serving on the date of his discharge. Such an officer may not be paid more than two years' basic pay of the grade in which he is serving at the time of his discharge or $15,000, whichever amount is the lesser.

(2) For the purpose of computing the amount of a readjustment payment under subsection (b) (3), a part of a year that is six months or more is counted as a whole year, and a part that is less than six months is disregarded.

(d) If any officer who received a readjustment payment under this section qualifies for retired pay under any provision of this title or title 14 that authorizes his retirement upon completion of twenty years of active service, an amount equal to 75 per centum of that payment, without interest, shall be deducted immediately from his retired pay.

(e) This section does not apply to any officer who is required to be discharged or retired for failure of promotion to the grade of first lieutenant, captain, or major unders section 3298 or 3303, as appropriate, or who is found to be disqualified for promotion under section 3302 of this title.

(f) When, under regulations prescribed by the Secretary, any officer has been recommended for removal from the active list of the Regular Army under chapter 359 or 360 of this title, and that recommendation has been received by headquarters, Department of the Army, or when, under regulations prescribed by the Secretary, any officer has been selected by headquarters, Department of the Army, for discharge under section 3814 of this title, such officer may not be considered for removal from the active list under this section. However, any action by any headquarters subordinate to headquarters, Department of the Army, with respect to proceedings for the consideration of any officer for discharge under chapter 359 or 360 or section 3814 of this title shall not prevent consideration for removal of such officer from the active list under this section. Further, the removal of any officer from the active list under this section is not prevented if such officer was previously considered for discharge under chapter 359 or 360 of this title and was recommended for retention under such provision of law or if such officer was recommended for discharge under section 3814 but was not discharged under authority of such section.

(g) Under regulations prescribed by the Secretary, any regular officer who is within two years of becoming eligible for retired pay may not be involuntarily discharged under this section before he becomes eligible for that pay, unless his discharge is approved by the Secretary. (Added Pub. L. 93–558, § 1, Dec. 30, 1974, 88 Stat. 1793.)

EFFECTIVE AND TERMINATION DATE

Section 2 of Pub. L. 93–558 provided that: "This Act [enacting this section] is effective on the date of enactment [Dec. 30, 1974] and expires three years after that date."

Chapter 367.—RETIREMENT FOR LENGTH OF SERVICE

§ 3911. Twenty years or more: regular or reserve commissioned officers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3814a of this title.

Chapter 371.—COMPUTATION OF RETIRED PAY

§ 3991. Computation of retired pay.

REFERENCES IN TEXT

Section 3915, referred to in the "For sections" column for formula A, was repealed by Pub. L. 90–130, § 1(13), Nov. 8, 1967, 81 Stat. 376.

PART III.—TRAINING

Chapter 401.—TRAINING GENERALLY

Sec.
4314. United States Army Command and General Staff College degree.

AMENDMENTS

1974—Pub. L. 93–365, title VII, § 708(a)(2), Aug. 5, 1974, 88 Stat. 407, added item 4314.

§ 4301. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.

* * * * * * *

(b) An officer, other than one of the Regular Army on the active list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

* * * * * * *

(As amended Nov. 29, 1973, Pub. L. 93–169, 87 Stat. 689.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–169 struck out provisions which had limited to four years the maximum period for which an officer detailed for additional active duty upon termination of detail is required to serve.

§ 4308. Civilian rifle ranges: establishment; instruction.

TRAVEL EXPENSES OF CIVILIAN NATIONAL BOARD MEMBERS

Pub. L. 93–437, title III, § 301, Oct. 8, 1974, 88 Stat. 1217, provided in part: "That travel expenses of civilian members of the National Board shall be paid in accordance with the Standardized Government Travel Regulations, as amended."

Similar provisions were contained in the following prior acts:

Jan. 2, 1974, Pub. L. 93–238, title III, § 301, 87 Stat. 1031.

Oct. 26, 1972, Pub. L. 92–570, title III, § 301, 86 Stat. 1189.

Dec. 18, 1971, Pub. L. 92–204, title III, § 301, 85 Stat. 720.

§ 4314. United States Army Command and General Staff College degree.

Under regulations prescribed by the Secretary of the Army, and with the approval of a nationally recognized civilian accrediting association approved by the Commissioner of Education, Department of Health, Education, and Welfare, the Commandant of the United States Army Command and General Staff College may upon recommendation by the faculty confer the degree of master of military art and science upon graduates of the college who have fulfilled the following degree requirements: a minimum of thirty semester hours of graduate credit, including a masters thesis of six to eight semester hours, and a demonstration of competence in the discipline of military art and science as evidenced by satisfactory performance on a general comprehensive examination. These requirements may be altered only with the approval of such association. The Secretary of the Army shall report annually to the Committees on Armed Services of the Senate and House of Representatives the following information: (1) the criteria which must be met to entitle a student to award of the degree, (2) whether such criteria have changed in any respect during the reporting year, (3) the number of students in the most recent resident course graduating class, (4) the number of such students who were enrolled in the master of military art and science program, and (5) the number of students successfully completing the master of military art and science program. (Added Pub. L. 93–365, title VII, § 708(a)(1), Aug. 5, 1974, 88 Stat. 407.)

RETROACTIVE DEGREE CONFERRAL; MAXIMUM AMOUNT

Section 708(b) of Pub. L. 93–365 provided that: "The Commandant of the United States Army Command and General Staff College may confer the degree of master of military art and science upon graduates of the college who have completed the requirements for that degree since 1964 but prior to the enactment of this Act [Aug. 5, 1974]; but the number of such degrees awarded for such period may not exceed two hundred."

Chapter 403.—UNITED STATES MILITARY ACADEMY

§ 4342. Cadets: appointment; numbers, territorial distribution.

(a) The authorized strength of the Corps of Cadets of the Academy is as follows:

(1) 65 cadets selected in order of merit as established by competitive examinations from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Veterans' Administration as to service connection of the cause of death or disability, and the percentage at which the disabling is rated, is binding upon the Secretary of the Army.

* * * * *

(6) One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

* * * * *

(8) One cadet nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama.

(9) One cadet from Guam, nominated by the Delegate in Congress from Guam.

(10) One cadet from American Samoa nominated by the Secretary of the Army upon recommendation of the Governor of American Samoa.

* * * * *

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) One hundred selected by the President from the children of members of an armed force who—

* * * * *

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

* * * * *

(f) Each candidate for admission nominated under clauses (3)–(7), (9) and (10) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * *

(As amended Aug. 7, 1972, Pub. L. 92–365, § 1(1), 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 1(1)–(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, title VIII, § 803(b)(1), 89 Stat. 538.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–106 substituted "children" for "sons" in three places.

Subsec. (a)(8). Pub. L. 94–106 substituted "children" for "sons" in two places.

Subsec. (b)(1). Pub. L. 94–106 substituted "children" for "sons".

Subsec. (c). Pub. L. 94–106 substituted "children" for "sons".

1973—Subsec. (a)(6). Pub. L. 93–171, § 1(1), substituted "One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five cadets from each Territory, nominated by the Delegate in Congress from the Territory".

Subsec. (a)(9). Pub. L. 93–171, § 1(2), struck out reference to Guam and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, § 1(3), added subsec. (a)(10).

Subsec. (f). Pub. L. 93–171, § 1(4), substituted ", (9) and (10) of subsection (a)" for "and (9) of subsection (a)" and struck out reference to Territory.

1972—Subsec. (a)(1). Pub. L. 92–365 increased the number of cadets from 40 to 65 and added sons of members who are in a missing status and sons of civilian employees who are in missing status as eligible for the competitive examination.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4 of Pub. L. 93–171 provided that: "The amendments made by this Act [amending this section and sections 4343, 6954, 6956, 6958, 9342, and 9343 of this title] shall be effective beginning with the nominations for appointments to the service academies in the calendar year 1974."

ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS

Section 803(a) of Pub. L. 94–106 provided that: "Notwithstanding any other provision of law, in the administration of chapter 403 of title 10, United States Code [this chapter] (relating to the United States Military Academy), chapter 603 of such title (relating to the United States Naval Academy), and chapter 903 of such title (relating to the United States Air Force Academy), the Secretary of the military department concerned shall take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the service academy concerned, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals."

SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY

Section 803(c) of Pub. L. 94–106 provided that: "It is the sense of Congress that, subject to the provisions of subsection (a) [note set out above], the Secretaries of the military departments shall, under the direction of the Secretary of Defense, continue to exercise the authority granted them in chapters 403, 603 and 903 of title 10, United States Code, but such authority must be exercised within a program providing for the orderly and expeditious admission of women to the academies, consistent with the needs of the services, with the implementation of such program upon enactment of this Act [Oct. 7, 1975]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4343, 4363 of this title.

§ 4343. Cadets: appointment; to bring Corps to full strength.

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Army may fill the vacancies by nominating additional cadets from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this section shall be selected from qualified alternates nominated by the persons named in clauses (2)–(9) of section 4342(a) of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law. (As amended Nov. 29, 1973, Pub. L. 93–171, § 1(5), 87 Stat. 690.)

AMENDMENTS

1973—Pub. L. 93–171 substituted "clauses (2)–(9) of section 4342(a)" for "clauses (2)–(8) of section 4342(a)".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year, 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4342 of this title.

PART IV.—SERVICE, SUPPLY, AND PROCUREMENT

Chapter 433.—PROCUREMENT

§ 4537. Military surveys and maps: assistance of United States mapping agencies.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 439.—SALE OF SERVICEABLE MATERIAL

§ 4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1139; title 37 section 1007.

Chapter 449.—REAL PROPERTY

Sec.

4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
4772. Reservation and use for air base or testing field.
4774. Construction: limitations.
4776. Emergency construction: fortifications.
4777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
4778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
4779. Use of public property.
4780. Acquisition of buildings in District of Columbia.

AMENDMENTS

1973—Pub. L. 93–166, title V, § 509(c), Nov. 29, 1973, 87 Stat. 677, substituted "Construction: limitations" for "Construction of quarters: limitations on space and cost" in item 4774.

1971—Pub. L. 92–145, title V, § 509(a), Oct. 27, 1971, 85 Stat. 408, struck out item 4775.

§ 4774. Construction: limitations.

Except when built by members of the Army, no permanent barrack quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000. (As amended Oct. 27, 1971, Pub. L. 92–145, title V, § 508(a), (c), 85 Stat. 408; Nov. 29, 1973, Pub. L. 93–166, title V, § 509(c), 87 Stat. 677.)

AMENDMENTS

1973—Pub. L. 93–166 substituted "Construction: limitations" as catchline for "Construction of quarters: limitations on space and cost", redesignated subsec. (d) as entire section, and repealed provisions of subsecs. (a)–(c) relating to space limitations, now covered by section 2684(a)–(c) of this title, and provisions of subsecs. (e)–(h) relating to exemptions from cost limitations, authorizing the construction of 4-bedroom and 5-bedroom units for enlisted men and officers holding grades below major, and allowing an increase of up to 15 percentum in the maximum limitations prescribed by subsecs. (a), (f), and (g) upon a determination that such an increase is necessary to permit the award of a turnkey construction contract for family housing.

1971—Subsec. (f). Pub. L. 92–145, § 508(a), provided for space limitation of one thousand four hundred square feet for five-bedroom units.

Subsec. (g). Pub. L. 92–145, § 508(c), made space limitation provision applicable to five-bedroom units.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2388 of this title; title 29 section 982; title 42 sections 1594h, 2942, 5042.

§ 4775. Repealed. Pub. L. 92–145, title V, § 509(a), Oct. 27, 1971, 85 Stat. 408.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 269, authorized assignment of quarters belonging to United States at a post or station by post quartermaster to officers, grade lieutenant general down to second lieutenant, 10 to 2 rooms, respectively, and prohibited other assignment where quarters existed.

Chapter 451.—MILITARY CLAIMS

Sec.
4802. Admiralty claims against the United States.

AMENDMENTS

1972—Pub. L. 92–417, § 1(2), Aug. 29, 1972, 86 Stat. 654, substituted "Admiralty claims against the United States" for "Damaged by United States vessels; towage and salvage of United States vessels" in item 4802.

§ 4802. Admiralty claims against the United States.

(a) The Secretary of the Army may settle or compromise an admiralty claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Army or by other property under the jurisdiction of the Department of the Army;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army or to other property under the jurisdiction of the Department of the Army; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.

* * * * *

(As amended Aug. 29, 1972, Pub. L. 92–417, § 1(1), 86 Stat. 654.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–417 substituted "Admiralty claims against the United States" for "Damage by United States vessels, towage and salvage of United States vessels" in the section catchline, in text preceding par. (1), eliminated the requirement that the Secretary of the Army discharge his functions under the direction of the Secretary of Defense, in par. (1) added "or by other property under the jurisdiction of the Department of the Army," in par. (2) added "or to other property under the jurisdiction of the Department of the Army; or," and added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4806 of this title.

§ 4804. Salvage claims by United States.

(a) The Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army. Amounts received under this section shall be covered into the Treasury.

(b) In any case where the amount to be received by the United States is not more than $10,000, the Secretary of the Army may delegate his authority under subsection (a) to any person designated by him. (As amended Aug. 29, 1972, Pub. L. 92–417, § 1(3), 86 Stat. 654.)

AMENDMENTS

1972—Pub. L. 92–417 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, eliminated the requirement that the Secretary of the Army discharge his functions under the direction of the Secretary of Defense, and added subsec. (b).

Chapter 453.—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
4831. Custody of departmental records and property.
4832. Property accountability; regulations.
4835. Reports of survey.
4836. Individual equipment: unauthorized disposition.
4837. Settlement of accounts: deductions from pay.
4838. Settlement of accounts: affidavit of company commander.
4839. Settlement of accounts: oaths.
4840. Final settlement of officer's accounts.

AMENDMENTS

1972—Pub. L. 92–310, title II, § 204(b), June 6, 1972, 86 Stat. 202, struck out item 4834.

§ 4834. Repealed. Pub. L. 92–310, title II, § 204(a), June 6, 1972, 86 Stat. 202.

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 272; Nov. 2, 1966, Pub. L. 89–718, § 31, 80 Stat. 1119, required commissioned officers of the Quartermaster Corps to give fidelity bonds.

Subtitle C—Navy and Marine Corps

PART II.—PERSONNEL

Chapter 513.—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL; OFFICE OF NAVAL RESEARCH

§ 5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General.

(a) A judge advocate of the Navy or Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title shall be detailed as Deputy Judge Advocate General of the Navy. While so serving he is entitled to the rank and grade of rear admiral (upper half) or major general, as appropriate, unless entitled to a higher rank or grade under another provision of law. The Deputy Judge Advocate General is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(b) An officer of the Judge Advocate General's Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. While so serving he is entitled to the rank and grade of rear admiral (lower half), unless entitled to a higher rank or grade under another provision of law. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of rear admiral (lower half). If he is retired as a rear admiral, he is entitled to retired pay in the lower half of that grade, unless entitled to higher pay under another provision of law.

* * * * *

CODIFICATION

Subsections (a) and (b) of this section are set out in this Supplement to correct typographical errors.

§ 5153. Naval Research Advisory Committee.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 533.—DISTRIBUTION IN GRADE

§ 5457. Naval Reserve: officers in an active status in permanent grades above chief warrant officer, W-4.[1]

(a) The authorized strength of the Naval Reserve in officers in an active status in the grade of rear admiral is 48, distributed among the line and the staff corps as follows:

* * * * *

(3) Supply Corps—7.

* * * * *

(6) Judge Advocate General's Corps—1.

(7) Dental Corps—2.

* * * * *

(As amended Pub. L. 92-559, Oct. 25, 1972, 86 Stat. 1173.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-559 substituted "Supply Corps—7" for "Supply Corps—8" in cl. (3), redesignated cl. (6) as cl. (7), and added cl. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 123, 5892 of this title.

[1] Section amended by Pub. L. 86-559 which eliminated "permanent" preceding "grade" and "grades" in text of subsecs. (a) and (b) without amending catchline to reflect such change.

Chapter 539.—ORIGINAL APPOINTMENTS

§ 5573a. Regular Navy and Regular Marine Corps: from reserve and temporary officers.

PRESIDENTIAL APPOINTMENT OF CERTAIN OFFICERS MISSING IN THE VIETNAM CONFLICT TO ACTIVE LIST

Pub. L. 93-598, Jan. 2, 1975, 88 Stat. 1954, provided:

"That notwithstanding section 5573a of title 10, United States Code [this section], or any other law, the President may make appointments to the active list of the Navy in permanent grades not above captain, and to the active list of the Marine Corps in permanent grades not above colonel from officers of the following who were in a missing status as defined in section 551(2) of title 37, United States Code, during the Vietnam conflict as a result of that conflict:

"(1) The Naval Reserve or the Marine Corps Reserve.

"(2) The Regular Navy or Marine Corps who do not hold permanent commission appointments therein.

"SEC. 2. For the purposes of this Act, the Vietnam conflict—

"(1) begins on February 28, 1961;

"(2) ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam; and

"(3) includes activities in Vietnam, Laos, Cambodia and Thailand.

"SEC. 3. The authority to make appointments under this Act shall expire two years from the date of enactment [Jan. 2, 1975]."

§ 5597. Navy and Marine Corps: temporary appointments in time of war or national emergency.

* * * * *

(e) Temporary appointments under this section in grades above chief warrant officer, W-4, shall be made under regulations prescribed by the President and in such numbers as he determines the needs of the service require. Such appointments shall be made by the President alone, except that appointments under subsections (f) and (g) in grades above lieutenant commander in the Navy shall be made by the President, by and with the advice and consent of the Senate. The grade of commodore is established for the purposes of subsections (f) and (g).

* * * * *

(As amended Sept. 28, 1971, Pub. L. 92-129, title VI, § 603(a), 85 Stat. 362.)

AMENDMENTS

1971—Subsec. (e). Pub. L. 92-129 substituted "appointments under subsections (f) and (g) in grades above lieutenant commander in the Navy", for "appointments under subsections (f) and (g) in grades above captain in the Navy".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280, 5442, 5443, 5444, 5501, 5504, 5786, 6325, 6488 of this title; title 37 sections 415, 905.

Chapter 543.—SELECTION BOARDS

§ 5701. Navy; line officers: promotion and continuation on the active list.

OFFICER PERSONNEL ACT OF 1947

Titles I and II of the Officer Personnel Act of 1947, act Aug. 7, 1947, ch. 512, 61 Stat. 795, as amended by acts June 23, 1950, ch. 344, §§ 1(a) 2, 64 Stat. 250, 253; Apr. 30, 1956, ch. 223, § 4(1), 70 Stat. 121; Sept. 2, 1958, Pub. L. 85-861, § 8, 72 Stat. 1556; June 28, 1962, Pub. L. 87-509, § 4(b), 76 Stat. 121 provided:

* * * * *

§ 5707. Officers to be recommended for promotion or continuation.

EX. ORD. NO. 11554. SUSPENSION OF CERTAIN PROVISIONS RELATING TO ESTABLISHMENT OF MAXIMUM PERCENTAGE OF NAVY AND MARINE CORPS OFFICERS RECOMMENDED FOR PROMOTION

Ex. Ord. No. 11554, Aug. 29, 1970, 35 F.R. 14189, as amended by Ex. Ord. No. 11684, Aug. 30, 1972, 37 F.R. 17959; Ex. Ord. No. 11799, Aug. 17, 1974, 39 F.R. 30101, provided:

By virtue of the authority vested in me by section 5711 (b) of title 10 of the United States Code, it is ordered as follows:

The operation of so much of the provisions of section 5707(c) of title 10 of the United States Code [subsec. (c) of this section] as restrict, to a percentage of five percent of the total number of officers that a board is authorized to recommend for promotion, the number of Navy and Marine Corps officers below the appropriate promotion zone who may be recommended as best fitted for promotion to the grade concerned, is hereby suspended until June 30, 1976.

RICHARD NIXON.

Chapter 545.—PROMOTIONS

§ 5787. Temporary promotions in time of war or national emergency.

* * * * *

(e) Promotions under this section shall be made by temporary appointments. Each such appointment to a grade above lieutenant commander in the Navy or to a grade above major in the Marine Corps shall be made by the President, by and with the advice and consent of the Senate. Each such appointment to a warrant officer grade shall be made by the Secretary, by commission. All other temporary appointments under this section shall be made by the President alone.

* * * * *

(As amended Sept. 28, 1971, Pub. L. 92–129, title VI, § 603(b), 85 Stat. 362.)

AMENDMENTS

1971—Subsec. (e). Pub. L. 92–129 substituted "a grade above lieutenant commander in the Navy or to a grade above major in the Marine Corps", for "the grade of commodore or above in the Navy or to the grade of brigadier general or above in the Marine Corps".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5442, 5443, 5444, 5501, 5504, 5786, 5791, 5862, 6325, 6385, 6395, 6488 of this title; title 37 section 905.

§ 5791. Appointing power.

* * * * *

(b) Permanent and temporary appointments under this chapter in a grade above lieutenant commander in the Naval Reserve and in a grade above major in the Marine Corps Reserve shall be made by the President, by and with the advice and consent of the Senate. Except as provided in sections 5787 and 5790 of this title, all other permanent and temporary appointments under this chapter in the Naval Reserve and in the Marine Corps Reserve shall be made by the President alone. (As amended Sept. 28, 1971, Pub. L. 92–129, title VI, § 603(c), 85 Stat. 362.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–129 substituted "in a grade above lieutenant commander in the Naval Reserve and in a grade above major in the Marine Corps Reserve", for "in the grade of rear admiral in the Naval Reserve and in the grades of major general and brigadier general in the Marine Corps Reserve".

Chapter 549.—RESERVE PROMOTIONS

§ 5912. Appointing power.

Permanent and temporary appointments under this chapter in grades above lieutenant commander in the Naval Reserve and in grades above major in the Marine Corps Reserve shall be made by the President, by and with the advice and consent of the Senate. All other permanent and temporary appointments under this chapter shall be made by the President alone. (As amended Pub. L. 92–129, title VI, § 603(d), Sept. 28, 1971, 85 Stat. 362.)

AMENDMENTS

1971—Pub. L. 92–129 substituted "grades above lieutenant commander in the Naval Reserve and in grades above major in the Marine Corps Reserve", for "grades above captain in the Naval Reserve and in grade above colonel in the Marine Corps Reserve".

Chapter 555.—ADMINISTRATION

Sec.
6011. Navy Regulations.
6012. Additional regulations for Marine Corps.
6013. Enlisted grades and ratings: authority to establish.
6014. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy.
6015. Women members: duty; qualifications; restrictions.
6017. Retired list for Reserve members entitled to retired pay.
6018. Naval officers: shore duty; limitations.
6019. Citizenship of officers of vessels.
6021. Aviation duties: number of personnel assigned.
6022. Aviation training facilities.
6024. Aviation designations: naval flight officer.
6027. Medical Department: composition.
6028. Medical Service Corps: composition.
6029. Dental services: responsibilities of senior dental officer.
6031. Chaplains: divine services.
6032. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases.
6034. Regulations for retired pay based on service in the Reserve.

AMENDMENTS

1972—Pub. L. 92–310, title II, § 204(c), June 6, 1972, 86 Stat. 203, struck out item 6026.

1971—Pub. L. 92–168, § 2(3), Nov. 24, 1971, 85 Stat. 489, struck out items 6023 and 6025 which read "Aviation designations: naval aviator." and "Aviation designations: aviation pilot.", respectively.

§ 6023. Repealed. Pub. L. 92–168, § 2(1), Nov. 24, 1971, 85 Stat. 489.

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 376; Oct. 13, 1964, Pub. L. 88–647, title III, § 301(15), 78 Stat. 1072, provided qualifications to receive aviation designation of naval aviator. See section 2003 of this title.

§ 6025. Repealed. Pub. L. 92–168, § 2(2), Nov. 24, 1971, 85 Stat. 489.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, provided qualifications to receive aviation designation of aviation pilot. See section 2003 of this title.

§ 6026. Repealed. Pub. L. 92–310, title II, § 204(a), June 6, 1972, 86 Stat. 202.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, required officers in the Supply Corps to give good and sufficient bonds to account for all public money and property that they receive.

Chapter 565.—BANDS

§ 6223. Competition with civilian musicians prohibited.

AMERICAN REVOLUTION BICENTENNIAL; RECORDINGS FOR COMMERCIAL SALE

Authorization for Navy Band to participate in the production of a collection of recordings for commercial sale

in connection with the American Revolution Bicentennial, and for Secretary of Defense to enter into contracts for the production and sale of the collection of recordings, see Pub. L. 93–571, Dec. 31, 1974, 88 Stat. 1868, set out as a note under section 3634 of this title.

Chapter 567.—DECORATIONS AND AWARDS

EXTENSION OF TIME FOR AWARD OF DECORATION

For extension of time for the award of decorations, or devices in lieu of decorations, for acts or services performed in direct support of military operations in Southeast Asia between July 1, 1958, and Mar. 28, 1973, see Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, set out as a note preceding section 3741 of this title.

Chapter 573.—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

§ 6386. Suspension: preceding sections.

DELEGATION OF FUNCTIONS

Authority vested in the President under subsec. (c) of this section delegated to the Secretary of Defense, see section 1(15) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, as amended, set out as a note under section 301 of Title 3, The President.

PART III.—EDUCATION AND TRAINING

Chapter 603.—UNITED STATES NAVAL ACADEMY

§ 6954. Midshipmen: number.

(a) There may be at the Naval Academy at any one time midshipmen as follows:

(1) 65 selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Veterans' Administration as to service connection of the cause of death or disability is rated, is binding upon the Secretary of the Navy.

(2) Five nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten from each State, five of whom are nominated by each Senator from that State.

(4) Five nominated by each Representative in Congress.

(5) Five from the District of Columbia, nominated by the Delegate to the House of Represenatives from the District of Columbia.

(6) One from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) One nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama.

(9) One from Guam, nominated by the Delegate in Congress from Guam.

(10) One from American Samoa nominated by the Secretary of the Navy upon recommendation of the Governor of American Samoa.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate a principal candidate and nine alternates for each vacancy that is available under this section.

(b) In addition there may be appointed each year at the Academy midshipmen as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay, other than those granted retired pay under section 1331 of this title;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.

(2) 85 nominated by the Secretary of the Navy from enlisted members of the Regular Navy and the Regular Marine Corps.

(3) 85 nominated by the Secretary of the Navy from enlisted members of the Naval Reserve and the Marine Corps Reserve.

(4) 20 nominated by the Secretary of the Navy, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Naval Reserve Officer's Training corps.

(5) 150 selected by the Secretary of the Navy in order of merit (prescribed pursuant to section 6956 of this title) from qualified alternates nominated by persons named in clauses (3) and (4) of subsection (a).

(c) The President may also appoint as midshipmen at the Academy children of persons who have been awarded the medal of honor for acts performed while in the armed forces.

(d) The Secretary of the Navy may limit the number of midshipmen appointed under subsection (b)(5). When he does so, if the total number of midshipmen, upon admission of a new class at the Academy, will be more than 3,737, no appointments may be made under subsection (b) (2) or (3) of this section or section 6956 of this title.

(e) Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the Secretary of the Navy shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy. (Aug. 10, 1956, ch. 1041, 70A Stat. 429, amended Sept. 7, 1962, Pub. L. 87–651, title I, § 124, 76 Stat. 514; Sept. 14, 1962,

Pub. L. 87–663, § 1(3), 76 Stat. 547; Mar. 3, 1964, Pub. L. 88–276, § 2, 78 Stat. 150; Oct. 13, 1966, Pub. L. 89–650, § 1(1)–(3), 80 Stat. 896; July 5, 1968, Pub. L. 90–374, 82 Stat. 283; Oct. 22, 1968, Pub. L. 90–623, § 2(8), 82 Stat. 1314; Sept. 22, 1970, Pub. L. 91–405, title II, § 204(c), 84 Stat. 852; Aug. 7, 1972, Pub. L. 92–365, § 1(2), 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 2(1)–(3), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, title VIII, § 803(b)(1), 89 Stat. 538.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–106 substituted "children" for "sons" in three places.

Subsec. (a)(8). Pub. L. 94–106 substituted "children" for "sons" in two places.

Subsec. (b)(1). Pub. L. 94–106 substituted "children" for "sons".

Subsec. (c). Pub. L. 94–106 substituted "children" for "sons".

1973—Subsec. (a)(6). Pub. L. 93–171, § 2(1), substituted "One from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five from each Territory, nominated by the Delegate in Congress from that Territory".

Subsec. (a)(9). Pub. L. 93–171, § 2(2), struck out reference to American Samoa and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, § 2(3), added subsec. (a)(10).

1972—Subsec. (a)(1). Pub. L. 92–365 increased the number of midshipmen from 40 to 65 and added sons of members who are in missing status and sons of civilian employees who are in missing status as eligible for competitive examination.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS

Secretary required to take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the United States Naval Academy, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals, see section 803(a) of Pub. L. 94–106, set out as a note under section 4342 of this title.

SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY

Secretary to continue to exercise the authority granted under this chapter and chapters 403 and 903 of this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94–106, set out as a note under section 4342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6956, 6958 of this title.

§ 6956. Midshipmen: nomination and selection to fill vacancies.

* * * * *

(d) If the annual quota of midshipmen from—

(1) enlisted members of the Regular Navy and the Regular Marine Corps;

(2) enlisted members of the Naval Reserve and the Marine Corps Reserve; or

(3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(e) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this subsection shall be from qualified alternates under clauses (2)–(9) of section 6954(a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

* * * * *

(As amended Nov. 29, 1973, Pub. L. 93–171, § 2(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, title VIII, § 803(b)(2), 89 Stat. 538.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–106 substituted "enlisted members" for "enlisted men" in pars. (1) and (2).

1973—Subsec. (e). Pub. L. 93–171 substituted reference to clauses (2)–(9) of section 6954(a) for reference to clauses (2)–(8) of section 6954(a).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6554, 6954 of this title.

§ 6958. Midshipmen: qualifications for admission.

* * * * *

(b) Each candidate for admission nominated under clauses (3)–(7), (9) and (10) of section 6954(a) of this title must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * *

(As amended Nov. 29, 1973, Pub. L. 93–171, § 2(5), 87 Stat. 690.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–171 substituted ", (9) and (10) of section 6954(a)" for "and (9) of section 6954(a)" and struck out "or Territory".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

PART IV.—GENERAL ADMINISTRATION

Chapter 631.—SECRETARY OF THE NAVY: MISCELLANEOUS POWERS AND DUTIES

Sec.
7201. Guided missiles: research and development, procurement, and construction.
7203. Scientific investigation and research.
7204. Schools near naval activities: financial aid; transportation of dependents.
7205. Promotion of health and prevention of accidents.
7207. Administration of liberated and occupied areas.
7208. Latin American cooperation.
7209. Rewards for recovery of missing naval property.
7210. Purchase of patents, patent applications, and licenses.
7211. Attendance at meetings of technical, professional, or scientific organizations.
7212. Employment of outside architects and engineers.
7213. Relief of contractors and their employees from losses by enemy action.
7214. Apprehension of deserters and prisoners; operation of shore patrols.
7216. Collection, preservation, and display of captured flags.
7217. Annual report to Congress: appropriations.
7219. Leases of waterfront property from States or municipalities.
7220. Gifts for welfare of enlisted members.
7221. Acceptance and care of gifts to vessels.
7222. Office of Naval Records and History gift fund.
7223. Acquisition of land for radio stations and for other purposes.
7224. Transportation on naval vessels during wartime.
7225. Naval Reserve flag.
7226. Naval Reserve yacht pennant.
7227. Foreign naval vessels and aircraft: supplies and services.
7228. Merchant vessels: supplies.
7229. Purchase of fuel.
7230. Sale of degaussing equipment.

AMENDMENTS

1975—Pub. L. 94–106, title VIII, § 804(b), Oct. 7, 1975, 89 Stat. 538, struck out item 7202 which read: "Emergency and extraordinary expenses".

§ 7202. Repealed. Pub. L. 94–106, title VIII, § 804(b), Oct. 7, 1975, 89 Stat. 538.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 442, related to authority of Secretary of the Navy to provide for emergency and extraordinary expenses and to delegation of such authority to other persons in the Department of the Navy, and is now covered by section 140 of this title.

§ 7204. Schools near naval activities: financial aid: transportation of dependents.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 7205. Promotion of health and prevention of accidents.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 7211. Attendance at meetings of technical, professional, or scientific organizations.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 633.—NAVAL VESSELS

§ 7291. Classification.

NAVAL SHIP NEW CONSTRUCTION AND CONVERSION PROGRAM; REPORTS TO CONGRESSIONAL COMMITTEES

Section 808 of Pub. L. 94–106, title VIII, Oct. 7, 1975, 89 Stat. 539, provided that: "Concurrent with the submission of the President's budget for the fiscal year commencing October 1, 1976, the Secretary of Defense shall submit a five-year naval ship new construction and conversion program. Thereafter, concurrent with the annual submission of the President's budget, the Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives any changes to such a five-year program as he deems necessary for the current year, and for the succeeding years, based upon, but not limited to, alternatives in the defense strategy of the United States and advances in defense technology. This section does not in any way change existing law with respect to the annual authorization of the construction and conversion of naval vessels."

NUCLEAR POWERED MAJOR COMBATANT VESSELS; CONSTRUCTION; DEFINITIONS; REPORT TO CONGRESS BY SECRETARY OF DEFENSE; LIMITATIONS ON AUTHORIZATION OR APPROPRIATION REQUESTS; REPORT TO CONGRESS BY PRESIDENT OF ALTERNATE PROGRAM

Pub. L. 93–365, title VIII, §§ 801–804, Aug. 5, 1974, 88 Stat. 408, 409, provided that:

"Sec. 801. It is the policy of the United States of America to modernize the strike forces of the United States Navy by the construction of nuclear powered major combatant vessels and to provide for an adequate industrial base for the research, development, design, construction, operation, and maintenance for such vessels. New construction major combatant vessels for the strike forces of the United States Navy authorized subsequent to the date of the enactment of this Act [Aug. 5, 1974] becomes law shall be nuclear powered, except as provided in this title.

"Sec. 802. For the purposes of this title, the term 'major combatant vessels for the strike forces of the United States Navy' means—

"(1) combatant submarines for strategic or tactical missions, or both;

"(2) combatant vessels intended to operate in combat in aircraft carrier task groups (that is, aircraft carriers and the cruisers, frigates, and destroyers which accompany aircraft carriers); and

"(3) those types of combatant vessels referred to in clauses (1) and (2) above designed for independent combat missions where essentially unlimited high speed endurance will be of significant military value.

"Sec. 803. The Secretary of Defense shall submit to Congress each calendar year, at the same time the President submits the budget to Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), a written report regarding the application of nuclear propulsion to major combatant vessels for the strike forces of the United States Navy. The report shall identify contract placement dates for their construction and shall identify the Department of Defense Five Year Defense Program for construction of nuclear powered major combatant vessels for the strike forces of the United States Navy.

"Sec. 804. All requests for authorizations or appropriations from Congress for major combatant vessels for the strike forces of the United States Navy shall be for construction of nuclear powered major combatant vessels for such forces unless and until the President has fully advised the Congress that construction of nuclear powered vessels for such purpose is not in the national interest. Such report of the President to the Congress shall include for consideration by Congress an alternate program of nuclear powered ships with appropriate design, cost, and schedule information."

§ 7305. Sale of vessel stricken from Naval Vessel Register.

EX. ORD. NO. 11765. SALE OF NAVAL VESSELS

Ex. Ord. No. 11765, Jan. 21, 1974, 39 F.R. 2577, provided:

By virtue of the authority vested in me by section 7305 (1) of title 10 of the United States Code, it is hereby ordered as follows:

SECTION 1. Vessels of the Navy stricken from the Naval Vessel Register pursuant to section 7304 of title 10 of the United States Code, and not subject to disposition under other law, may be sold at public sale to the highest acceptable bidder, regardless of their appraised value, after being advertised for sale for a period of not less than thirty days. Moreover, if the bid prices received after advertising are not considered reasonable by the Secretary of the Navy, or his designee, (either as to all or any part of a multiple ship advertisement) and he, or his designee, determines that readvertising will serve no useful purpose, such vessels may be sold by negotiation to the highest acceptable offeror: *Provided*, That (1) each responsible bidder has been notified of the intention to negotiate and has been given a reasonable opportunity to negotiate; (2) the negotiated price is higher than the highest rejected price of any responsible bidder; and (3) the negotiated price is the highest negotiated price offered by any responsible offeror.

SEC. 2. Each bid or offer shall be accompanied by a cash deposit (including cashier's check or certified check) in an amount not less than 10 percent of the bid or offer, or by a deposit bond, in such amount, executed by two or more acceptable sureties or by a surety appearing on the United States Treasury Department list of acceptable sureties. No other bond shall be required.

SEC. 3. Except as hereinabove modified pursuant to section 7305(1) of title 10 of the United States Code, sales of vessels of the Navy shall be conducted in accordance with the requirements in the remaining provisions of section 7305 [this section].

SEC. 4. This order supersedes Executive Order No. 10885 of August 31, 1960, entitled "Sale of Vessels of the Navy."

RICHARD NIXON.

§ 7307. Restriction on disposal.

* * * * *

(b)(1) After the date of enactment of this paragraph, no naval vessel in excess of 2,000 tons or less than 20 years of age may be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation unless the disposition thereof has been approved by law enacted after such date of enactment.

(2) After the date of enactment of this paragraph, any naval vessel not subject to the provisions of paragraph (1) may be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation in accordance with applicable provisions of law only after the Secretary of the Navy, or his designee, has notified the Committees on Armed Services of the Senate and the House of Representatives in writing of the proposed disposition and 30 days of continuous session of Congress have expired following the date on which notice was transmitted to such committees. For purposes of this paragraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period. (As amended Aug. 5, 1974, Pub. L. 93–365, title VII, § 702, 88 Stat. 405.)

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (b), probably means the date of enactment of Pub. L. 93–365, which was approved on Aug. 5, 1974.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–365 substituted provisions restricting the disposal of naval vessels subsequent to the date of enactment of this subsec. (b) and setting forth specified prerequisites for such disposal, for provisions prohibiting the disposal of battleships, aircraft carriers, cruisers, destroyers, or submarines not stricken from the Naval Vessel Register, nor any interest of the United States in such vessels, where no authority has been granted by Congress for such disposal after March 10, 1951.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 2322, 2793; title 50 App. sections 1878e, 1878j, 1878m, 1878p, 1878q, 1878s, 1878y, 1878cc, 1878ee, 1878hh, 1878mm, 1878tt, 1878zz–4.

Chapter 637.—SALVAGE FACILITIES

§ 7365. Settlement of claims.

The Secretary of the Navy, or his designee, may consider, ascertain, adjust, determine, compromise, or settle and receive payment of any claim by the United States for salvage services rendered by the Department of the Navy. (As amended Aug. 29, 1972, Pub. L. 92–417, § 1(4), 86 Stat. 654.)

AMENDMENTS

1972—Pub. L. 92–417 struck out "to any vessel" following "Department of the Navy".

Chapter 639.—UNITED STATES NAVAL OCEANOGRAPHIC OFFICE AND NAVAL OBSERVATORY

§ 7393. United States Naval Oceanographic Office: pilot charts.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 641.—NAVAL PETROLEUM RESERVES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 6214.

§§ 7421–7429.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 43 section 1601.

§ 7430. Disposition of products.

(a) The Secretary of the Navy in administering the naval petroleum and oil shale reserves under this chapter, shall use, store, sell, or exchange for other petroleum or refined products, the oil and gas products, including royalty products, oil shale and products therefrom produced, from lands in the naval petroleum and oil shale reserves and lands outside petroleum reserve numbered 1 covered by joint, unit, or other cooperative plans for the benefit of the United States.

(b) Each sale of petroleum, gas, other hydrocarbons, oil shale, or products therefrom, under this section shall be made by the Secretary at public sale to the highest qualified bidder at such time, in such amounts, and after such advertising as the Secretary considers proper. (Aug. 10, 1956, ch. 1041, 70A Stat. 460; Aug. 24, 1962, Pub. L. 87–599, § 2, 76 Stat. 401; Oct. 11, 1962, Pub. L. 87–796, § 1(6), 76 Stat. 905.)

CODIFICATION

Section is set out in this Supplement to correct the erroneous execution of Pub. L. 87–796 into the Code.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–896 included provision for administration of oil shale reserves, required the Secretary of the Navy to use, store, sell, or exchange oil shale and products therefrom produced from oil shale reserves for other petroleum or refined products, and deleted provision which required the Secretary to use, store, sell, or exchange gas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Pub. L. 87–599 required the Secretary of the Navy to use, store, sell, or exchange pas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Subsec. (b). Pub. L. 87–796 included sale of oil shale and products from petroleum, gas, other hydrocarbons, and oil shale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1601.

§§ 7431–7438.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 43 section 1601.

Chapter 647.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.

7541. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League.

AMENDMENTS

1975—Pub. L. 93–628, § 1(b), Jan. 3, 1975, 88 Stat. 2148, added Naval Sea Cadet Corps and Young Marines of the Marine Corps League in item 7541.

§ 7541. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League.

Subject to regulations under section 486 of title 40, the Secretary of the Navy may—

(1) give obsolete material not needed for naval purposes; and

(2) sell other material that may be spared at a price representing is fair value;

to the Boy Scouts of America for the sea scouts, to the Naval Sea Cadet Corps for the sea cadets, and to the Young Marines of the Marine Corps League for the young marines. The cost of transportation and delivery of material given or sold under this section shall be charged to the Boy Scouts of America, to the Naval Sea Cadets, or to the Young Marines of the Marine Corps League, as the case may be. (As amended Jan. 3, 1975, Pub. L. 93–628, § 1, 88 Stat. 2147.)

AMENDMENTS

1975—Pub. L. 93–628 added "Naval Sea Cadet Corps and Young Marines of the Marine Corps League" in the section catchline, and authorized the Secretary of the Navy to gift obsolete materials and to sell surplus materials to the Naval Sea Cadet Corps and the Young Marines of the Marine Corps League with the requirement that the cost of transportation and delivery of such materials be charged to the recipient.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 93–628 provided that: "The amendments made by the first section [to this section] shall take effect on the date of the enactment of this Act [Jan. 3, 1975]."

Chapter 649.—QUARTERS, UTILITIES, AND RELATED SERVICES

Sec.

7571. Quarters of other accommodations: to whom furnished.

7572. Quarters: accommodations in place of for members on sea duty.

7573. Quarters: temporary; transient members.

7576. Quarters: extension telephones.

7577. Quarters: Nurse Corps Officers; assignment in hospitals.

7579. Officers' messes and quarters: limitations on employment of enlisted members.

7580. Heat and light for Young Men's Christian Association buildings.

7581. Marine Corps post laundries: disposition of receipts.

AMENDMENTS

1973—Pub. L. 93–166, title V, § 509(d), Nov. 29, 1973, 87 Stat. 678, struck out items 7574 and 7575.

§ 7571. Quarters or other accommodations: to whom furnished.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 7572. Quarters: accommodations in place of for members on sea duty.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§§ 7574, 7575. Repealed. Pub. L. 93–166, title V, § 509(d), Nov. 29, 1973, 87 Stat. 678.

Section 7574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 468; Aug. 30, 1957, Pub. L. 85–241, title IV, § 404(b), 71 Stat. 556; Aug. 10, 1959, Pub. L. 86–149, title IV, § 410(b), 73 Stat. 321; July 27, 1962, Pub. L. 87–554, title V, § 504(b), (d), 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, § 503, 77 Stat. 325; Dec. 5, 1969, Pub. L. 91–142, title V, § 510(a), 83 Stat. 312; Oct. 27, 1971, Pub. L. 92–145, title V, § 508(b), (c), 85 Stat. 408, related to quarters: limitations on size. See section 2684 of this title.

Section 7575, act Aug. 10, 1956, ch. 1041, 70A Stat. 469, related to quarters: exemptions from cost limitations.

§ 7576. Quarters: extension telephones.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 653.—CLAIMS

§ 7622. Admiralty claims against the United States.

(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than $1,000,000 an admiralty claim against the United States for—

(1) damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service or to other property under the jurisdiction of the Department of the Navy; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.

* * * * * *

(As amended Aug. 29, 1972, Pub. L. 92–417, § 1(5), 86 Stat. 654.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–417 substituted "an admiralty claim against the United States" for "a claim against the United States" in text preceding par. (1), in

par. (1) added "or by other property under the jurisdiction of the Department of the Navy", in par. (2) added "or to other property under the jurisdiction of the Department of the Navy", and added par. (3).

CROSS REFERENCES

Nuclear incident involving nuclear reactor of United States warship, payment or claims or judgments for bodily injury, death, or damage resulting from, see section 2211 of Title 42, The Public Health and Welfare.

Subtitle D.—Air Force

PART I. ORGANIZATION

Chapter 805.—THE AIR STAFF

§ 8031. Composition: assignment and detail of members of Air Force and civilians.

* * * * *

(c) Not more than 2,800 officers of the Air Force may be assigned or detailed to permanent duty in the executive part of the Department of the Air Force. However, this limitation does not apply in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Department.

* * * * *

(As amended Jan. 2, 1975, Pub. L. 93-608, § 1(5), 88 Stat. 1968.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-608 struck out requirement of annual report to Congress on the number of officers in the executive part of the Department of the Air Force and the justification therefor.

Chapter 807.—THE AIR FORCE

§ 8067. Designation: officers to perform certain professional functions.

REFERENCES IN TEXT

Section 8291 of this title, referred to in subsection (e), was repealed by section 401(1) of Pub. L. 85-155, Aug. 21, 1957, 71 Stat. 390.

PART II.—PERSONNEL

Chapter 831.—STRENGTH

§ 8202. Air Force: officers in certain commissioned grades.

INCREASE IN AUTHORIZED STRENGTH IN GRADES OF COLONEL AND LIEUTENANT COLONEL

Pub. L. 93-397, Aug. 29, 1974, 88 Stat. 795, provided: "That beginning with October 1, 1974, through September 30, 1976, the columns under the headings 'For colonels' and 'For lieutenant colonels' contained in the table in section 8202(a) of title 10, United States Code [subsec. (a) of this section], are suspended. For such period such columns shall read as follows:

"For colonels	For lieutenant colonels
3,395	6,370
3,743	7,552
4,091	8,733
4,440	9,914
4,788	11,095
5,136	12,276
5,484	13,452
5,833	14,638
6,181	15,819
6,528	17,001
6,876	18,162
7,226	19,363
7,573	20,544
7,921	21,726".

Pub. L. 89-606, § 1, Sept. 26, 1966, 80 Stat. 849, as amended by Pub. L. 92-561, § 1(1), Oct. 25, 1972, 86 Stat. 1175, provided: "That, beginning with the date of enactment of this Act [Sept. 26, 1966] through September 30, 1974, the columns under the headings 'For colonels' and 'For lieutenant colonels' contained in the table in section 8202(a) of title 10, United States Code [subsec. (a) of this section], are suspended. For such period such columns shall read as follows:

"For colonels	For lieutenant colonels
3,500	6,500
3,859	7,706
4,218	8,911
4,577	10,116
4,936	11,321
5,295	12,527
5,654	13,732
6,013	14,937
6,372	16,142
6,730	17,348
7,089	18,533
7,449	19,758
7,807	20,963
8,166	22,169".

INCREASE IN NUMBER OF OFFICERS WHO MAY SERVE IN GRADE OF LIEUTENANT COLONEL AND MAJOR

Pub. L. 89-606, § 2, Sept. 26, 1966, 80 Stat. 849, as amended by Pub. L. 92-561, § 1(2), Oct. 25, 1972, 86 Stat. 1175, provided that: "For the period specified in section 1 of this Act, the authorized strength prescribed by section 8202 of title 10, United States Code, as amended by section 1 of this Act [this section], may be exceeded by 1,000 for the grade of lieutenant colonel, and 1,500 for the grade of major. However, the authority to exceed the authorized strengths by 1,000 for the grade of lieutenant colonel, and 1,500 for the grade of major authorized by this section may be used only in the event that drastic reductions or increases in the authorized strength of the commissioned officers on active duty in the Air Force occur within a short period of time and that such changes seriously impede promotions to the grades of major and lieutenant colonel as determined by the Secretary of the Air Force, who shall notify the Committees on Armed Services of the Senate and of the House of Representatives not later than 60 days following the utilization of any of the numbers covered in this sentence."

Chapter 837.—APPOINTMENTS AS RESERVE OFFICERS

§ 8352. Officers; Air Force Reserve: transfer from Air National Guard of United States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 593 of this title.

Chapter 839.—TEMPORARY APPOINTMENTS

§ 8447. Appointments in commissioned grade: how made; how terminated.

* * * * *

(b) Temporary appointments of commissioned officers in the Regular Air Force shall be made by the President alone in grades below lieutenant colonel and by the President, by and with the advise and consent of the Senate, in grades of lieutenant colonel and above. Temporary appointments of commissioned officers in the reserve components of the Air Force shall be made by the President alone in grades below lieutenant colonel and by the President, by and with the advice and consent of the Senate, in grades above major.

* * * * *

(As amended Sept. 28, 1971, Pub. L. 92-129, title VI, § 604, 85 Stat. 362.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–129 substituted "Regular Air Force" for "Air Force", "President alone in grades below lieutenant colonel" for "President alone in grades below brigadier general", and "Senate, in grades of lieutenant colonel and above" for "Senate, in general officer grades", respectively, and added sentence providing for temporary appointements in the reserve components of the Air Force.

Chapter 845.—RANK AND COMMAND

Sec.
8571. Rank: commissioned officers on active duty.
8572. Rank: commissioned officers serving under temporary appointments.
8573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list.
8574. Rank: commissioned officers in regular grades below brigadier general.
8575. Rank: warrant officers.
8579. Command: commissioned officers in certain designated categories.
8581. Command: chaplains.
8582. Command: retired officers.

AMENDMENTS

1974—Pub. L. 93–525, Dec. 18, 1974, 88 Stat. 1695, struck out item 8577, which read: "Command: flying units.".

§ 8577. Repealed. Pub. L. 93–525, Dec. 18, 1974, 88 Stat. 1695.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 530, provided for the command of flying units by commissioned officers of the Air Force who had received aeronautical ratings as pilots of service types of aircraft.

Chapter 849.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

§ 8634. Air Force band: may not be paid for performance outside air base.

AMERICAN REVOLUTION BICENTENNIAL; RECORDINGS FOR COMMERCIAL SALE

Authorization for Air Force Band to participate in the production of a collection of recordings for commercial sale in connection with the American Revolution Bicentennial, and for Secretary of Defense to enter into contracts for the production and sale of the collection of recordings, see Pub. L. 93–571, Dec. 31, 1974, 88 Stat. 1868, set out as a note under section 3634 of this title.

Chapter 853.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
8683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.
8684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
8686. Members of Air National Guard of United States: credit for service as members of Air National Guard.
8687. Compensation: members of Air Force other than of Regular Air Force; when same as that provided for members of Regular Air Force.
8689. Assignments and allotments of pay.
8691. Flying officer rating: qualifications.

AMENDMENTS

1971—Pub. L. 92–168, § 3(2), Nov. 24, 1971, 85 Stat. 489, struck out item 8692 which read "Pilot rating in time of peace: qualifications.".

§ 8692. Repealed. Pub. L. 92–168, § 3(1), Nov. 24, 1971, 85 Stat. 489.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 538, provided qualifications to receive a rating of pilot in time of peace. See section 2003 of this title.

Chapter 857.—DECORATIONS AND AWARDS

EXTENSION OF TIME FOR AWARD OF DECORATION

For extension of time for the award of decorations, or devices in lieu of decorations, for acts or services performed in direct support of military operations in Southeast Asia between July 1, 1958, and Mar. 28, 1973, see Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, set out as a note preceding section 3741 of this title.

Chapter 863.—SEPARATION OR TRANSFER TO RETIRED RESERVE

§ 8850. Thirty years or more: reserve commissioned officers; excessive number.

Whenever the Secretary of the Air Force believes that there are too many commissioned officers in an active status, in any reserve grade, who have at least 30 years of service computed under section 8853 of this title or at least 20 years of service computed under section 1332 of this title, he may convene a board to consider all reserve officers in an active status in that grade who have that amount of service and who are not assigned to a unit organized to serve as a unit. The board shall recommend officers by name for removal from an active status, in the number specified by the Secretary. In the case of an officer so recommended, the Secretary may—

(1) transfer him to the Retired Reserve, if he is qualified and applies therefor;

(2) transfer him to an inactive status, if he is qualified; or

(3) discharge him from his reserve appointment.

(Added Pub. L. 85–861, § 1(92), Sept. 2, 1958, 72 Stat. 1537, and amended Pub. L. 90–168, § 2(22), Dec. 1, 1967, 81 Stat. 525.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

PART III.—TRAINING

Chapter 901.—TRAINING GENERALLY

§ 9301. Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.

* * * * * *

(b) An officer, other than one of the Regular Air Force on the active list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

* * * * * *

(As amended Nov. 29, 1973, Pub. L. 93–169, 87 Stat. 689.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–169 struck out provisions which had limited to four years the maximum period for which an officer detailed for additional active duty upon termination of detail is required to serve.

Chapter 903.—UNITED STATES AIR FORCE ACADEMY

§ 9342. Cadets: appointment; numbers, territorial distribution.

(a) The authorized strength of Air Force Cadets of the Academy is as follows:

(1) 65 cadets selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disabiilty rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Veterans' Administration as to service connection of the cause of death or disability, and the percentage at which the disability is rated, is binding upon the Secretary of the Air Force.

* * * * *

(6) One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

* * * * *

(8) One cadet nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama.

(9) One cadet from Guam, nominated by the Delegate in Congress from Guam.

(10) One cadet from American Samoa nominated by the Secretary of the Air Force upon recommendation of the Governor of American Samoa.

* * * * *

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

* * * * *

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

* * * * *

(f) Each candidate for admission nominated under clauses (3)–(7), (9) and (10) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * *

(As amended Aug. 7, 1972, Pub. L. 92–365, § 1(3), 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 3(1)–(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, title VIII, § 803(b)(1), 89 Stat. 538.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–106 substituted "children" for "sons" in three places.

Subsec. (a)(8). Pub. L. 94–106 substituted "children" for "sons" in two places.

Subsec. (b)(1). Pub. L. 94–106 substituted "children" for "sons".

Subsec. (c). Pub. L. 94–106 substituted "children" for "sons".

1973—Subsec. (a)(6). Pub. L. 93–171, § 3(2), substituted "One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five cadets from each Territory, nominated by the Delegate in Congress from that Territory".

Subsec. (a)(9). Pub. L. 93–171, § 3(2), struck out reference to American Samoa and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, § 3(3), added subsec. (a)(10).

Subsec. (f). Pub. L. 93–171, § 3(4), substituted ", (9) and (10) of subsection (a)" for "and (9) of subsection (a)" and struck out reference to Territory.

1972—Subsec. (a)(1). Pub. L. 92–365 increased the number of Air Force Cadets form 40 to 65 and added sons of members who are in missing status and sons of civilian employees who are in missing status as eligible for competitive examination.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS

Secretary required to take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the United States Air Force Academy, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals, see section 803(a) of Pub. L. 94–106, set out as a note under section 4342 of this title.

SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY

Secretary to continue to exercise the authority granted under this chapter and chapters 403 and 603 of this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94–106, set out as a note under section 4342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9343 of this title.

§ 9343. Cadets: appointment; to bring to full strength.

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Air Force may fill the vacancies by nominating additional cadets from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academy Board. At least three-fourths of those nominated under this section shall be selected from qualified alternates nominated by the persons named in clauses (2)–(9) of section 9342(a) of this title, and the remainder from qualified candidates holding competitive nominations under any other pro-

vision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law. (As amended Nov. 29, 1973, Pub. L. 93–171, § 3(5), 87 Stat. 691.)

AMENDMENTS

1973—Pub. L. 93–171 substituted "clauses (2–(9) of section 9342(a)" for "clauses (2)–(8) of section 9342(a)".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9342 of this title.

PART IV.—SERVICE, SUPPLY, AND PROCUREMENT

Chapter 933.—PROCUREMENT

§ 9537. Military surveys and maps; assistance of United States mapping agencies.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 939.—SALE OF SERVICEABLE MATERIAL

§ 9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9629 of this title; title 22 section 1139; title 37 section 1007.

Chapter 949.—REAL PROPERTY

Sec.

9771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
9772. Reservation and use for air base or testing field.
9773. Acquisition and construction: air bases and depots.
9774. Construction: limitations.
9776. Emergency construction: fortifications.
9777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
9778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
9779. Use of public property.
9780. Acquisition of buildings in District of Columbia.

AMENDMENTS

1973—Pub. L. 93–166, title V, § 509(e), Nov. 29, 1973, 87 Stat. 678, substituted "Construction: limitations" for "Construction of quarters: limitations on space and cost" in item 9774.

1971—Pub. L. 92–145, title V, § 509(b), Oct. 27, 1971, 85 Stat. 408, struck out item 9775.

§ 9774. Construction: limitations.

Except when built by members of the Air Force, no permanent barrack, quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000. (As amended Oct. 27, 1971, Pub. L. 92–145, title V, § 508(a), (c), 85 Stat. 408; Nov. 29, 1973, Pub. L. 93–166, title V, § 509(e), 87 Stat. 678.)

AMENDMENTS

1973—Pub. L. 93–166 substituted "Construction: limitations" as catchline for "Construction of quarters: limitations on space and cost", redesignated subsec. (d) as entire section, and repealed provisions of subsecs. (a)–(c) relating to space limitations, now covered by section 2684(a)–(c) of this title, and provisions of subsecs. (e)–(h) relating to exemptions from cost limitations, authorizing the construction of 4-bedroom and 5-bedroom units for enlisted men and officers holding grades below major, and allowing an increase of up to 15 percentum in the maximum limitations prescribed by subsecs. (a), (f), and (g) upon a determination that such an increase is necessary to permit the award of a turnkey construction contract for family housing.

1971—Subsec. (f). Pub. 92–145, § 508(a), provided for space limitation of one thousand four hundred square feet for five-bedroom units.

Subsec. (g). Pub. L. 92–145, § 508(c), made space limitation provision applicable to five-bedroom units.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2388 of this title.

§ 9775. Repealed. Pub. L. 92–145, title V, § 509(b), Oct. 27, 1971, 85 Stat. 408.

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 590, authorized assignment of quarters belonging to United States at an air base or other Air Force installation to officers, grade lieutenant general down to second lieutenant, 10 to 2 rooms, respectively, and prohibited other assignment where quarters existed.

Chapter 951.—MILITARY CLAIMS

Sec.

9802. Admiralty claims against the United States.

AMENDMENTS

1972—Pub. L. 92–417, § 1(7), Aug. 29, 1972, 86 Stat. 655, substituted "Admiralty claims against the United States" for "Damage by United States vessels; towage and salvage of United States vessels" in item 9802.

§ 9802. Admiralty claims against the United States.

(a) The Secretary of the Air Force may settle or compromise an admiralty claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Air Force or by other property under the jurisdiction of the Department of the Air Force;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force or to other property under the jurisdiction of the Department of the Air Force; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.

* * * * *

(As amended Aug. 29, 1972, Pub. L. 92–417, § 1(6), 86 Stat. 655.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–417 substituted "Admiralty claims against the United States" for "Damage by United States vessels, towage and salvage of United States vessels" in the section catchline, in text preceding par. (1), eliminated the requirement that the Secretary of the Air Force discharge his functions under the direction of the Secretary of Defense, in par. (1), added "or by other property under the jurisdiction of the Department of the Air Force", in par. (2), added "or to other property under the jurisdiction of the Department of the Air Force", and added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9806 of this title.

§ 9804. Salvage claims by United States.

(a) The Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Air Force. Amounts received under this section shall be covered into the Treasury.

(b) In any case where the amount to be received by the United States is not more than $10,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person designated by him. (As amended Aug. 29, 1972, Pub. L. 92–417, § 1(8), 86 Stat. 655.)

AMENDMENTS

1972—Pub. L. 92–417 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, eliminated the requirement that the Secretary of the Air Force discharge his functions under the direction of the Secretary of Defense, and added subsec. (b).